

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

5  
6  
7  
8  
9 AUGUST 20, 2002

10  
11  
12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 KEN MITCHELL, CITIZEN APPOINTEE

15 DENNIS GARBIS, PUBLIC MEMBER

16 CLYDE KING, PUBLIC MEMBER

17 MAX LEWIS, PUBLIC MEMBER

18 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

19 SHARON PIGEON AND SANDRA RIGGS, COUNSEL FOR THE BOARD WITH  
20 THE ATTORNEY GENERAL'S OFFICE

21 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND ACTING  
22 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
~

INDEX

<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
1) Report of Board Escrow Account		5
2) VGOB-93-02/16-0328-01	Q-40	13
3) VGOB-02-06/18-1035	VC-505187	18
4) VGOB-02-06/18-1038	CNR-24655	(Cont.)
5) VGOB-02-06/18-1039	CNR-24629	(Cont.)
6) VGOB-02-07/16-1040	AZ-118	29
7) VGOB-02-07/16-1041	CC-36	42
8) VGOB-02-07/16-1042	FF-29	42
9) VGOB-02-07/16-1043	J-45	54
10) VGOB-02-07/16-1044	R-47	64
11) VGOB-02-07/16-1045	767	70
12) VGOB-02-07/16-1046	V-2287	77
13) VGOB-02-07/16-1047	VC-505188	83
14) VGOB-02-07/16-1048	FRENCH #1	89
15) VGOB-02-07/16-1049	P-550423	101
16) VGOB-01-06/19-0897	CNR-24340	107
17) VGOB-02-08/20-1050	AV-124	(Cont.)
18) VGOB-02-08/20-1051	AV-125	(Cont.)
19) VGOB-02-08/20-1052	DD-30	42
20) VGOB-02-08/20-1053	EE-30	109

1	21)	VGOB-02-08/20-1054	EE-33	109
2	22)	VGOB-02-08/20-1055	EE-34	127
3	23)	VGOB-02-08/20-1056	EE-35	127
4	<u>INDEX (Cont.)</u>			
	<u>AGENDA AND DOCKET NUMBERS:</u>		<u>UNIT</u>	<u>PAGE</u>
5				
6	24)	VGOB-02-08/20-1057	FF-35	127 & 155
7	25)	VGOB-02-08/20-1058	FF-36	109
8	26)	VGOB-02-08/20-1059	VC-504651	168
9	27)	VGOB-02-08/20-1060	V-505256	176
10	28)	VGOB-02-08/20-1061	740	187
11	29)	VGOB-02-08/20-1062	741	188
12	30)	VGOB-02-08/20-1063	754	188
13	31)	VGOB-02-08/20-1064	755	188
14	32)	VGOB-02-08/20-1065	9549	206
15	33)	VGOB-02-08/20-1066	9551	208
16	34)	VGOB-02-08/20-1067	20793	(Withdrawn)
17	35)	VGOB-02-08/20-1068	JOHNSON #2	224
18	36)	VGOB-02-08/20-1069	V-503108	217

19  
20 EXHIBITS:  
None

21  
22  
23 \*\*\*\*AGENDA ATTACHED

24

1           BENNY WAMPLER: Good morning. My name is Benny  
2 Wampler. I'm Deputy Director for the Virginia Department of  
3 Mines, Minerals and Energy, and Chairman of the Gas & Oil  
4 Board. I'll ask the members to introduce themselves,  
5 starting with Mr. King.

6           CLYDE KING: I'm Clyde King from Abingdon.  
7 Welcome.

8           MASON BRENT: My name is Mason Brent. I'm from  
9 Richmond, and I represent the gas and oil industry.

10          KEN MITCHELL: My name is Ken Mitchell. I'm from  
11 Stafford County, Virginia. I'm a citizen appointee.

12          SHARON PIGEON: Sharon Pigeon from the Office of  
13 the Attorney General.

14          SANDRA RIGGS: Sandra Riggs with the Office of the  
15 Attorney General.

16          MAX LEWIS: Max Lewis, Buchanan County, public  
17 member.

18          DENNIS GARBIS: My name is Dennis Garbis, Fairfax  
19 County, Virginia, public member.

20          BOB WILSON: I'm Bob Wilson. I'm the Director of  
21 the Division of Gas and Oil, and the principal executive to  
22 the staff of the Board.

23          BENNY WAMPLER: Thank you. The first item on  
24

1 today's agenda, the Board will receive a quarterly report on  
2 the Board escrow account administered by First Union Bank.  
3 We'll ask the escrow agent for the Board, Mr. Wilson, to come  
4 and give us an update. He's handed out some material for us  
5 to look at.

6           BOB WILSON: What I have given each Board member is  
7 a copy of the quarterly report, which actually reflects to  
8 the end of June since we continued from last month. We  
9 wanted to look at that in July. Also here is a semi-annual  
10 report on disbursements which is required under our contract  
11 with the bank, and I've also attached for your late approval  
12 a copy of the Code of Virginia section which applies to State  
13 investments. You've had some questions about that and we had  
14 some ongoing concerns with that.

15           Briefly, for the second quarter of the calendar  
16 year, we had deposits of \$142,488.93 and interest deposits of  
17 \$17,724.55. We were drawing for the month of June, the end  
18 of the quarter, 1.74% on this government money management  
19 account.

20           Total disbursements, and these reflect actual  
21 checks written during the quarter, \$34,191.46. Again, as  
22 usual, the fees of \$15,000 for the quarter have not been  
23 subtracted from the account as of this posting. They do that  
24

1 twice a year which again is fine for us. Leaving us a  
2 balance at the end of the quarter of \$6,478,520.55.

3 We had...have had ongoing discussions about the  
4 possibility of trying to attract some higher returns on this  
5 account, and I've had---. We had a little power failure  
6 there. We're back in business here now. We may have some  
7 OSHA problems with the extension cord.

8 We have talked to the escrow agent about the  
9 possibility of trying to obtain a higher rate of return and  
10 still remain within the guidelines of the law such as I've  
11 handed out to you there relative to investment of government  
12 funds. You will notice now this particular section starts  
13 out with investment of sinking funds. This is not a sinking  
14 fund, of course. So that section doesn't apply to this  
15 particular account. We had checked with them about several  
16 things: Number one, well, in fact we had...earlier they were  
17 just proposing First Union be (inaudible). The basic answer  
18 to that is they are not a brokerage. They pretty much have  
19 to deal with stuff that's available to them through  
20 their...in their bank. And the rate projections have  
21 actually turned out to be pretty accurate, the ones they gave  
22 us when we switched over to this government management  
23 ...government advantage account. They had projected a 1.81%

24

--

1 on that, and that's actually where we started out last  
2 quarter. Of course, like everything else, it's gone down a  
3 bit from there.

4           We can increase our return on this account to some  
5 degree if we can decide how much liquidity we need to  
6 maintain in the account, and the return that we would receive  
7 to some degree would depend on the amount of liquidity we  
8 decide we need and how much of the account we decide could  
9 possibly be placed in longer term instruments.

10           When I talked to the bank last, they...the numbers  
11 that they were mentioning were like 2.87% for a two year  
12 instrument, or 3.20% for a three year instrument that we  
13 could possibly get into if we decided to partition the  
14 account in some way. I will leave that, obviously, for the  
15 consideration of the Board. I'll follow your instructions,  
16 but I think our next step, if we decide to try to pursue a  
17 greater return, would be to decide the degree of liquidity we  
18 need to keep in that account.

19           BENNY WAMPLER: Questions from members of the  
20 Board, discussion? Mr. Mitchell.

21           KEN MITCHELL: Bob, I notice, and they very plainly  
22 said it, the 15,000 was not deducted. Why was it not  
23 deducted? They have stated it's being done on a semi-annual  
24

1 basis. I presume June...I'm presuming June is the sixth  
2 month and that would be semi-annual.

3 BOB WILSON: They characteristically have done this  
4 in January and July.

5 KEN MITCHELL: January and July.

6 BOB WILSON: Yeah. So, it should be reflected on  
7 our next quarterly statement that they have actually removed  
8 this.

9 KEN MITCHELL: And also, I notice that the refunds  
10 were all done in April. There were none done in May or June.  
11 Is that...are they doing the refunds quarterly? I mean, why  
12 none in May or June?

13 BOB WILSON: Pure happenstance. There was...this  
14 is when the orders hit their office and the time period for  
15 getting everything done just came about in April. That's  
16 when they wrote the checks. There is no specific time in  
17 paying out disbursements. They're paid as soon as they get  
18 their orders, and some of these actually were carry overs...  
19 in fact, most of them were carry overs from the previous  
20 quarter, the orders that were issued during the previous  
21 quarter, and they just landed on their desk for payout during  
22 April.

23 BENNY WAMPLER: All those have been Board orders

24

--



1 where we ordered reimbursements?

2 BOB WILSON: Correct.

3 KEN MITCHELL: Thank you, sir.

4 BENNY WAMPLER: Other questions from members of the  
5 Board?

6 DENNIS GARBIS: As far as determining the amount of  
7 liquidity versus, you know, maybe longer term instruments,  
8 probably what we ought to do is just maybe look at what we've  
9 withdrawn in the last five years, or a period of time maybe  
10 double that, multiply it by two, and then the balance, just  
11 go ahead and put it in something that's longer term if we can  
12 get this...we can get it up, I suspect it might be worthwhile  
13 for the people to get a little bit...if you get an extra  
14 percentage, it might be worthwhile, just as a recommendation.

15 BENNY WAMPLER: Any discussion on that?

16 MASON BRENT: I don't know how good our five year  
17 record would be because we only recently started disbursing,  
18 to the best of my knowledge.

19 BOB WILSON: I suspect that we're going to see a  
20 significant increase in disbursements over the last few  
21 years. At least it appears that way from talking to the  
22 operators themselves. But as Mr. Garbis said, we can find  
23 out what we have paid out and then provide whatever

24

--

1 (inaudible) from that, you know, you want to use.

2 DENNIS GARBIS: Well, the other thing, you could  
3 have varying degrees of long term. I mean, you don't have  
4 lock in for...obviously, thirty years would be unacceptable,  
5 but you could have some for six months, some for one year,  
6 and some even longer than that. So you can have a mixture of  
7 time lengths.

8 BENNY WAMPLER: It would be good for the next board  
9 meeting to get the bank to give us the...what the six month  
10 rate would be and the various instruments that would have the  
11 best payout, 12 months and 24 months. Then we could better  
12 decide based on Mr. Garbis' recommendation, what amount of  
13 money to put in each of those terms.

14 MASON BRENT: What does the profile on the account  
15 look like now? What are our investments in now?

16 BOB WILSON: Our investments are 100% in something  
17 they call their Government Advantage account, which is  
18 basically a money market account.

19 MASON BRENT: All of it is in that?

20 BOB WILSON: Yeah. It's not in investments at all.  
21 It's basically an interest bearing account. That's the  
22 entirety of the account is in that one.

23 BENNY WAMPLER: Mr. Mitchell.

24

--

1           KEN MITCHELL: Mr. Chairman, I've...since the last  
2 meeting that I attended, I had talked to our county treasurer  
3 there in Stafford County, and what she does, and it's done  
4 all over the State of Virginia, is they do staggered  
5 investments very similar to what Dennis was talking about.  
6 They'll put a million dollars this year, a million dollars  
7 next year, and do them for short term where as the ones end  
8 up on the end, the first ones mature and they're either  
9 liquid money for reinvestment or liquid money to pay out any  
10 disbursements. It's a very simple process. Basically every  
11 county in Virginia does it, all 94...95 of them do it. So  
12 that's something we should definitely look at, is put a  
13 million dollars for one year, then put a million dollars, you  
14 know, for two years. Then, you know, do it on large  
15 incremental numbers where we can get a good investment,  
16 especially 3.20 looks a whole lot more attractive than 1.72.

17           BOB WILSON: I'm assuming that we're talking here  
18 strictly about non-managed accounts. In other words,  
19 instruments such as CDs or something like that because there  
20 are managed accounts that are legal under the state statute,  
21 but speaking for this particular principal executive, I don't  
22 think we have any money managers here who could handle that.

23           KEN MITCHELL: But what I'm referring to, Bob, I

24

--

1 think here is that the counties are under this same code of  
2 Virginia that we are. They are the code of Virginia, but if  
3 they put it in fed funds, they put it in fed funds which they  
4 can put it in for 24 hours. They can put three million  
5 dollars for 24 hours. They can put four million dollars for  
6 two days. You know, it doesn't matter. They just...they buy  
7 them at a prescribed rate. A week later they could sell  
8 them. So, I mean, you know, this is not something that we  
9 would have to, you know, do a lot of managing with. Just set  
10 it up, do it on a long term basis and I think we would get a  
11 much better, you know, the three percent would be much, much  
12 better. But the counties invest in federal funds only, very  
13 safe, and it is authorized under this Code of Virginia that  
14 you printed for us.

15 BENNY WAMPLER: Of course, the reason we've kept it  
16 in a more liquid account is the mandate to pay out in 30  
17 days. But like you say, it's important to look at the  
18 experience that we've had as well as looking forward to what  
19 we may anticipate, reasonably anticipate. So, we'll try to  
20 do that and I guess put that back on the agenda next month  
21 with some additional details if that's okay.

22 CLYDE KING: We need to be very careful.

23 BENNY WAMPLER: Anything further?

24

--

1 (No audible response.)

2 BENNY WAMPLER: The next item on the agenda is  
3 reconvening of docket number VGOB-93-02/16-0328-01 for Unit  
4 Q-40. We'd ask the parties that wish to address the Board on  
5 this matter to come forward at this time.

6 (Exhibits are distributed to members of the Board.)

7 MARK SWARTZ: Mark Swartz and Anita Tester. Anita  
8 has done the work to balance the accounts, shared the  
9 spreadsheets and so forth for you, and I'll let her walk  
10 through it with you this morning.

11 (Witness is duly sworn.)

12

13

14

15

16

17

18

19

20

21

22

23

24

--



1 balances as of June 25th of this year, is that right?

2 A. Uh-huh.

3 Q. Is that a yes?

4 A. Yes.

5 Q. Okay. And is that the total amount then

6 that would be split between the parties subject to the

7 royalty split agreement?

8 A. Yes.

9 Q. So that number would have...is it a 50/50

10 agreement?

11 A. Tract three is just going to...we purchased

12 the Martin Shortt interest.

13 Q. Okay.

14 A. And that was previously a conflict between

15 Reserve Coal Properties and Martin Shortt.

16 Q. So that now in tract three would come out to

17 one party, correct?

18 A. Right.

19 Q. Then what would be the split with regard to

20 tract four?

21 A. There would be...it would be a 50/50 split

22 of---.

23 Q. Between RCP and Mr. Clybourne?

24

1 A. Yes.

2 BENNY WAMPLER: Go back into tract three and then  
3 to tract four and state that amount on the record.

4 Q. The...Anita, tell the Board what the total  
5 amount in tract three and four are.

6 A. Okay. The balance for tract three is  
7 \$6,261.59; and the balance for tract four is \$2,669.40.

8 BENNY WAMPLER: Thank you.

9 Q. Are you also requesting that any order of  
10 disbursement that the Board provide that henceforth, the  
11 operator to pay these folks directly?

12 A. Yes.

13 Q. Then you've given them an Exhibit E as well.  
14 Is that updated at all, or is that just a confirmation of  
15 where we stood when this petition was first filed?

16 A. Well, this is actually...whenever the bank  
17 does a disbursement, it gives them the percent of the escrow  
18 instead of the percent of the unit to be able to disburse the  
19 money.

20 Q. Okay. So that's an instruction to the bank  
21 as to how to come up with the amounts that you've shown here.

22 A. Yes.

23 Q. Is that right?

24

--



1           A.       Yes.

2           MARK SWARTZ: That's all I have, Mr. Chairman.

3           BENNY WAMPLER: On tract three on the Exhibit EE,  
4 you're showing Reserve Coal Properties for coal and gas and  
5 oil, you did say you all have purchased that?

6           MARK SWARTZ: Right.

7           ANITA TESTER: Yes.

8           MARK SWARTZ: There was an M. Shortt interest there  
9 that Reserve Coal Properties has purchased.

10          ANITA TESTER: I've got a copy of the deed.

11          BENNY WAMPLER: I just wanted to get that for the  
12 record.

13          MARK SWARTZ: No problem.

14          BENNY WAMPLER: Any questions, members of the  
15 Board?

16          BOB WILSON: Mr. Chairman, I'd like to make a  
17 comment, and I think this is the first time that a split  
18 ...request for a split has been brought in with the percent  
19 of escrow shown on the application. This is extremely  
20 important. It gives the bank, from an administrative  
21 standpoint, it's very much appreciated because we always have  
22 to go back to the bank and calculate these things because  
23 they don't fully understand ownerships and this sort of thing  
24

1 and we very much...very much appreciate you doing that and we  
2 like to see this on the split applications when they come in.  
3 Thank you.

4 BENNY WAMPLER: Do you have anything further, Mr.  
5 Swartz?

6 MARK SWARTZ: No, I don't.

7 BENNY WAMPLER: Is there a motion?

8 CLYDE KING: So move.

9 KEN MITCHELL: Second it.

10 BENNY WAMPLER: Motion is second to approve. Any  
11 further questions?

12 (No audible response.)

13 BENNY WAMPLER: All in favor, signify by saying  
14 yes.

15 (All members of the Board say yes.)

16 BENNY WAMPLER: Opposed, say no.

17 (No audible response.)

18 BENNY WAMPLER: You have approval. The next item  
19 on the agenda, the Board will consider a petition from  
20 Equitable Production for pooling of a coalbed methane unit  
21 under the Nora Coalbed Gas Field order identified as VC-  
22 505187, docket number VGOB-02-06/18-1035. We'd ask the  
23 parties that wish to address the Board in this matter to come  
24

--

1 forward at this time.

2 (Exhibits are distributed to members of the Board.)

3 JIM KISER: Mr. Chairman, members of the Board, Jim  
4 Kiser on behalf of Equitable Production Company. Our witness  
5 in this matter will be Mr. Don Hall. I ask that he be sworn  
6 at this time.

7 (Witness is duly sworn.)

8 BENNY WAMPLER: The record will show that there are  
9 no others. You may proceed.

10

11 DON HALL

12 having been duly sworn, was examined and testified as  
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16 Q. Mr. Hall, could you state your name for the  
17 Board, who you're employed by and in what capacity?

18 A. My name is Don Hall. I'm employed by  
19 Equitable Production as district landman.

20 Q. Do your responsibilities include the land  
21 involved here and the surrounding areas?

22 A. They do.

23 Q. Are you familiar with Equitable's  
24

--

1 application seeking a pooling order for EPC well number VC-  
2 505187, which was dated May 17th, 2002?

3 A. Yes.

4 Q. Is Equitable seeking to force pool the  
5 drilling rights underlying the unit as depicted in Exhibit A,  
6 being a plat to this application?

7 A. We are.

8 Q. Does the location proposed for this well  
9 fall within the Board's order for the Nora Coalbed Gas Field?

10 A. Yes.

11 Q. Prior to filing the application, were  
12 efforts made to contact each of the respondents listed in  
13 your revised Exhibit B and an attempt made to work out an  
14 agreement regarding the development of the unit?

15 A. Yes.

16 Q. Before we get into what percentages of the  
17 oil and gas estate and the coal estate that are leased and  
18 unleased, can you explain the revisions to the Exhibit B for  
19 the Board?

20 A. Yes. This was...this was the docket number  
21 that was continued from June, I believe, and the reason for  
22 it was on the new Exhibit B that I just passed out to  
23 everyone, on page one, under the Julia Breeding heirs,

24

--

1 initially we had inverted Arthur Breeding and Novela Kahlau  
2 ...Novelada Kahlau, we had listed her as leased and Arthur  
3 Breeding as unleased, and at...when in fact Ms. Kahlau was  
4 unleased and Mr. Breeding was leased. At the last hearing,  
5 the June hearing, it was determined that we needed to notify  
6 Ms. Kahlau because she was listed as leased originally.

7 Q. We had notified her, but she didn't have the  
8 full 30 days?

9 A. Correct. Yes. In addition to that, a  
10 couple more corrections on the Exhibit, on page two, Ken  
11 Titus Breeding at the top of the page, there's just an  
12 address change from Urwood Drive to Yewood Drive, which is  
13 correct. And at the bottom of the page, Bea Fletcher, we had  
14 initially listed her as her and her husband and her husband  
15 is deceased. We listed her as widow. That's the changes in  
16 the Exhibit.

17 Q. We do have green cards from all the  
18 respondents?

19 A. Yes, sir.

20 Q. Correct?

21 A. Yes, sir.

22 Q. Does Equitable own drilling rights in the  
23 unit involved here?

24

--

1           A.       We do.

2           Q.       What is the interest of Equitable under  
3 lease in the gas estate in the unit?

4           A.       78.14%.

5           Q.       And what is the interest of Equitable under  
6 lease in the coal estate?

7           A.       82.42%.

8           Q.       Are all the unleased parties set out in your  
9 revised Exhibit B?

10          A.       They are.

11          Q.       Are you familiar with the ownership of  
12 drilling rights of parties other than Equitable underlying  
13 this unit?

14          A.       Yes.

15          Q.       What portion of the gas estate remains  
16 unleased?

17          A.       21.86%.

18          Q.       And what portion of the coal estate remains  
19 unleased?

20          A.       17.58%.

21          Q.       We don't have any unknowns or unlocatables  
22 in this unit, is that correct?

23          A.       That's correct.

24

1                   Q.       In your professional opinion, was due  
2 diligence exercised to locate each of the respondents named  
3 herein?

4                   A.       Yes.

5                   Q.       Are the addresses set out now in the revised  
6 Exhibit B of the application the last known addresses of the  
7 respondents?

8                   A.       They are.

9                   Q.       Are you requesting this Board to force pool  
10 all the unleased interests listed in this revised Exhibit B?

11                  A.       Yes.

12                  Q.       Are you familiar with the fair market value  
13 of drilling rights here and in the surrounding area?

14                  A.       Yes, sir.

15                  Q.       Could you advise the Board as to what those  
16 are?

17                  A.       Five dollar bonus, five year term and a one-  
18 eighth royalty.

19                  Q.       Did you gain your familiarity by acquiring  
20 oil and gas leases, coalbed methane leases and other  
21 agreements involving the transfer of drilling rights in the  
22 unit involved here and in the surrounding area?

23                  A.       Yes.

24

--

1                   Q.       And in your opinion, do the terms you have  
2 testified to represent the fair market value of and the fair  
3 and reasonable compensation to be paid for drilling rights in  
4 this unit?

5                   A.       They do.

6                   Q.       As to the respondents who have not  
7 voluntarily agreed to lease, do you recommend those  
8 respondents who remain unleased in revised Exhibit B be  
9 allowed the following options with respect to their ownership  
10 rights within the unit: One, participation; two, a cash  
11 bonus of \$5 per net mineral acre plus a one-eighth of eight-  
12 eighths royalty; three, in lieu of the cash bonus and one-  
13 eighth of eight-eighths royalty, a share in the operation of  
14 the well on a carried basis as a carried operator under the  
15 following conditions: Such carried operator shall be  
16 entitled to share...the share of production from the tracts  
17 pooled accruing to his interest exclusive of any royalty or  
18 overriding royalty reserved in any leases, assignments  
19 thereof or agreements relating thereto of such tracts, but  
20 only after the proceeds applicable to his share equal, A)  
21 300% of the share of such cost applicable to the interest of  
22 the carried operator of a leased tract or portion thereof; or  
23 B) 200% of the share of such cost applicable to the interest

24

--



1 of the carried operator of an unleased tract or portion  
2 thereof?

3 A. Yes.

4 Q. Do you recommend that the order provide that  
5 the elections by respondents be in writing and sent to the  
6 applicant at Equitable Production Company, 1710 Pennsylvania  
7 Avenue, P. O. Box 2347, Charleston, West Virginia 25328,  
8 Attention: Melanie Freeman, Regulatory?

9 A. Yes.

10 Q. And should this be the address for all  
11 communications with the applicant concerning any force  
12 pooling order?

13 A. It should.

14 Q. Do you recommend that the order provide that  
15 if no election is properly made by a respondent, then such  
16 respondent shall be deemed to have elected the cash royalty  
17 option in lieu of participation?

18 A. Yes.

19 Q. Should any unleased respondents be given 30  
20 days from the date that the Board order is executed to file  
21 their written elections?

22 A. Yes.

23 Q. And if an unleased respondent elects to  
24

1 participate, should they be given 45 days to pay for the  
2 applicable...respondent's proportionate share of well costs?

3 A. Yes.

4 Q. Does the applicant expect any party electing  
5 to participate to pay to in advance that party's share of  
6 completed well costs?

7 A. Yes.

8 Q. Should the applicant be allowed a 120 days  
9 following the recordation date of the Board order and  
10 thereafter annually on that date until production is achieved  
11 to pay or tender any cash bonus becoming due under the force  
12 pooling order?

13 A. Yes.

14 Q. Do you recommend that the order provide that  
15 if a respondent elects to participate but fails to pay their  
16 proportionate share of well costs satisfactory to the  
17 applicant for payment of the those costs, then the  
18 respondent's election to participate shall be treated as  
19 having been withdrawn and void, and such respondent should be  
20 treated just as if no initial election had been filed, in  
21 other words, deemed to have leased?

22 A. Yes.

23 Q. Do you recommend that the order provide that

24

--

1 where a respondent elects to participate but defaults in  
2 regard to the payment of well costs, any cash sum becoming  
3 payable to such respondent be paid within 60 days after the  
4 last date on which such respondent could have paid or made  
5 arrangements for the payment of those well costs?

6 A. Yes.

7 Q. Okay. Due to conflicting claimants to the  
8 coalbed methane between the gas estate and the coal estate,  
9 should the Board create an escrow account where all proceeds  
10 should be held for the respondent's benefits until such funds  
11 can be paid to the party by the order of this Board until the  
12 conflicting claim is resolved to the operator's satisfaction?

13 A. Yes.

14 Q. And who should be named operator under any  
15 force pooling order?

16 A. Equitable Production Company.

17 Q. Mr. Hall, what's the total depth of the  
18 proposed well under the plan of development?

19 A. 2253 feet.

20 Q. And what are the estimated reserves of the  
21 unit?

22 A. 800 million cubic feet.

23 Q. Are you familiar with the well costs for the  
24

1 proposed well under the plan of development?

2 A. Yes, sir.

3 Q. Was an AFE reviewed, signed and submitted to  
4 the Board as Exhibit C to the application?

5 A. It has.

6 Q. Was this AFE prepared by an engineering  
7 department knowledgeable in the preparation of AFEs and  
8 knowledgeable in regard to well costs in this area?

9 A. Yes.

10 Q. In your opinion, does this AFE represent a  
11 reasonable estimate of the well costs under the plan of  
12 development?

13 A. It does.

14 Q. Could you state for the Board at this time  
15 both the dry hole costs and the completed well costs for  
16 505187?

17 A. The dry hole costs is \$90,096 and the  
18 completed well costs would be \$194,565.

19 Q. Do these costs anticipate a multiple  
20 completion?

21 A. They do.

22 Q. Does your AFE include a reasonable charge  
23 for supervision?

24

1                   A.       Yes.

2                   Q.       In your professional opinion, would the  
3 granting of this application be in the best interest of  
4 conservation, the prevention of waste, and the protection of  
5 correlative rights?

6                   A.       Yes.

7                   JIM KISER: Nothing further of this witness at this  
8 time, Mr. Chairman.

9                   BENNY WAMPLER: Questions from members of the  
10 Board?

11                   (No audible response.)

12                   BENNY WAMPLER: Hearing none, do you have anything  
13 further?

14                   JIM KISER: We'd ask that the application be  
15 approved as submitted.

16                   BENNY WAMPLER: Is there a motion?

17                   MASON BRENT: Mr. Chairman, I move that we approve  
18 the application.

19                   KEN MITCHELL: Mr. Chairman, I second the motion  
20 for approval.

21                   BENNY WAMPLER: Motion and second. Any further  
22 discussion?

23                   (No audible response.)

24

1           BENNY WAMPLER: All in favor, signify by saying  
2 yes.

3           (All members say yes.)

4           BENNY WAMPLER: Opposed, say no.

5           (No audible response.)

6           BENNY WAMPLER: You have approval. Thank you. The  
7 next item on the agenda is a petition from Columbia Natural  
8 Resources, Incorporated for pooling of a conventional gas  
9 unit identified as CNR-24655, docket number VGOB-02-06/18-  
10 1038. Continued from July. We'd ask the parties that wish  
11 to address the Board in this matter to come forward at this  
12 time.

13           JIM KISER: Mr. Chairman, Jim Kiser on behalf of  
14 Columbia Natural Resources. We'd ask at this time that both  
15 items four and five be continued until the September docket,  
16 at which time negotiations are ongoing with another party and  
17 with any kind of luck at all, in September we should be able  
18 to withdraw these two petitions.

19           BENNY WAMPLER: They will be continued then. The  
20 next item on the agenda is a petition from Pocahontas Gas  
21 Partnership for pooling of a coalbed methane unit under the  
22 Middle Ridge I Coalbed Methane Gas Field Order, identified as  
23 AZ-118, docket number VGOB-02-07/16-1040. This was continued  
24

1 from July. We'd ask the parties that wish to address the  
2 Board in this matter to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington.

4 (Exhibits are distributed to members of the Board.)

5 (Witness is duly sworn.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

LESLIE K. ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. You need to state your name for the record.

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol Energy, CNX Gas Company, LLC.

Q. Who is the applicant this morning on this AZ-118?

A. Pocahontas Gas Partnership.

Q. And it's a request to pool a unit?

A. Yes, it is.

Q. Is it a Middle Ridge I unit?

A. Yes, it is.

Q. And it contains roughly...not roughly. It contains 58.74 acres, is that correct?

A. That's correct.

Q. And you're proposing in your application to drill one frac well in that unit?

A. Yes.

Q. Is the frac well that is proposed or drilled



1 within the drilling window?

2 A. Yes, it is.

3 Q. So, that means that there will be no need  
4 for any kind of location exception, correct?

5 A. That's correct.

6 Q. Are the respondents listed in both the  
7 notice and Exhibit B-3?

8 A. Yes, they are.

9 Q. What did you do to notify the respondents  
10 prior to the last hearing, actually?

11 A. Yes. We mailed by certified mail, return  
12 receipt requested on June 3rd of 2002. We published in the  
13 Daily Telegraph on June 10th of 2002.

14 Q. And have you filed both proof of publication  
15 and certifications with regard to the mailing with the Board  
16 this morning?

17 A. Yes, we have.

18 Q. When you published, what was published?

19 A. The notice of hearing and associated  
20 location exhibits.

21 Q. There's a map that shows the approximate  
22 location of the unit, correct?

23 A. Yes, it does.

24

1           Q.       And who is the applicant requesting be  
2 appointed as the Board's designated operator if this  
3 application is approved?

4           A.       Pocahontas Gas Partnership.

5           Q.       Is Pocahontas Gas Partnership a Virginia  
6 general partnership?

7           A.       Yes, it is.

8           Q.       And does it have two partners who are  
9 Consolidation Coal Company and Consol Energy, Inc.?

10          A.       Yes, it does.

11          Q.       Is Pocahontas Gas Partnership authorized to  
12 do business in the Commonwealth?

13          A.       Yes, it is.

14          Q.       Has it registered with the Department of  
15 Mines Minerals and Energy, and does it have a blanket bond on  
16 file as required by law?

17          A.       Yes, it does.

18          Q.       As we've previously indicated, you've listed  
19 the respondents in both the notice and Exhibit B-3. And my  
20 question for you now is do you want to add anybody?

21          A.       No.

22          Q.       Do you want to dismiss anybody?

23          A.       No, we do not.

24

--

1                   Q.       Okay. With regard to the interest you're  
2 seeking to pool, if you would turn to the revised Exhibit A,  
3 page two, and tell the Board the status of your acquisition  
4 or leasing efforts and what it is you're seeking to pool  
5 today?

6                   A.       Yes. We have...underneath this unit, we  
7 have 100% of the coal leased. We have 100% of the coal  
8 owner's CBM leased. We have 76.8130% of the oil and gas  
9 owner's CBM leased. We're seeking to pool 23.1870% of the  
10 oil and gas owner's coalbed methane.

11                  Q.       And in paragraph 4A, that should be zero  
12 rather than 23.187%.

13                  A.       For the coal interest.

14                  Q.       Right.

15                  A.       That's correct.

16                  Q.       Because you're showing that you've...at  
17 paragraph one, that you've got 100% of the coal CBM either  
18 under lease or acquired.

19                  A.       We do.

20                  Q.       Then at paragraph two, you're showing no  
21 need to pool that.

22                  A.       That's correct.

23                  Q.       So we need to file an amended exhibit and  
24

1 correct that.

2 A. That's correct.

3 Q. Obviously, you have leased a 100% of the  
4 coal and something on the order of three-quarters of the oil  
5 and gas interest here. Would you tell the Board what, in  
6 general, the terms are that you've been able to lease that  
7 acreage at?

8 A. Yes. Our standard coalbed methane lease is  
9 a dollar per acre per year, with a five year paid up term and  
10 one-eighth royalty.

11 Q. And would you recommend those same terms to  
12 the Board in the event this unit is pooled with regard to  
13 folks that are deemed to have been leased?

14 A. Yes, we would.

15 Q. You have next here an Exhibit E dealing with  
16 escrow requirements, correct?

17 A. Yes, we do.

18 Q. And escrow would be required here?

19 A. Yes, it would.

20 Q. And that's because of conflicts?

21 A. That's correct.

22 Q. And there also is apparently a split  
23 agreement?

24

--

1           A.       There is in Exhibit E, I believe.

2           Q.       So in Exhibit EE, you have listed people  
3 that would be a conflict but for the fact they've entered  
4 into a split agreement?

5           A.       That's correct.

6           Q.       And you're requesting that the Board order  
7 authorize the operator consistent with Exhibit EE to pay  
8 these folks that have split agreements directly rather than  
9 paying those funds into the escrow account?

10          A.       Yes, we do.

11          Q.       And with regard to the folks identified in  
12 Exhibit E, you're requesting that escrow...an escrow account  
13 be set up for this unit with sub-accounts for the tracts that  
14 you've listed?

15          A.       Yes.

16          Q.       This unit, this frac unit, have you provided  
17 the Board with an estimate of cost?

18          A.       Yes, we have.

19          Q.       And that would be at Exhibit C, I believe.

20          A.       Yes, it is.

21          Q.       And what are your estimated costs for this  
22 well?

23          A.       \$204,396.93, and an estimated depth of 2,560  
24

1 feet.

2 Q. And I take it you don't have a permit yet?

3 A. No.

4 Q. And the target formation in this well is?

5 A. All coal seams down to the red and green

6 formations.

7 Q. So, actually that would be even below the

8 Pocahontas Three?

9 A. Yes, it is.

10 Q. Okay. And depending on whether or not the

11 Jawbone I is above or below drainage here, you will be

12 starting at that location, correct?

13 A. Yes. That's correct.

14 Q. Is it your opinion that the plan for

15 developing the coalbed methane under AZ-118 is a reasonable

16 plan to develop that resource for the benefit of all of the

17 owners and claimants?

18 A. Yes, it is. I'd like to correct the permit

19 status.

20 Q. Okay.

21 A. It has been issued.

22 Q. Okay. And what's the permit number?

23 A. AZ-118 was...the permit number is 5438,

24

1 issued July 15th.

2 Q. So just about a month ago?

3 A. Yes.

4 Q. Is it your opinion that the proposed well  
5 will protect the correlative rights of all owners and  
6 claimants given the pooling application?

7 A. Yes, it will.

8 MR. SWARTZ: That's all I have.

9 BENNY WAMPLER: Questions from members of the  
10 Board? Is there anything in B-3 that you needed to do other  
11 than have it as an exhibit, as far as discussion?

12 MARK SWARTZ: I don't think we need to make any  
13 changes to B-3. I'm not sure I understand your question.

14 BENNY WAMPLER: Well, there was no discussion in  
15 B-3 as part of an exhibit.

16 MARK SWARTZ: Okay.

17 Q. The interest in unit, which is the far right  
18 hand column, is the percentage that is attributable to the  
19 individual folks that...respondents that are listed in  
20 Exhibit B-3, is that correct?

21 A. Yes, it is.

22 Q. And the way you calculated that is you took  
23 the acres in their tract, also within this unit?

24

--

1           A.       Yes.

2           Q.       And divided that by the acreage in the unit  
3 which is 58.74, right?

4           A.       Correct.

5           Q.       And that's how you got that percentage?

6           A.       Correct.

7           Q.       And if they wanted to figure out what their  
8 royalty share would be under a Board order, they would take  
9 their percentage times 12 1/2%, correct?

10          A.       Correct.

11          Q.       If they wanted to figure out what the amount  
12 of the check would be that they would need to write to  
13 participate in the unit as a partner, they would take that  
14 percentage times the estimated cost and that would be the  
15 amount of the investment, at least initially?

16          A.       Yes.

17          Q.       And the same percentage would apply to  
18 carried interest?

19          A.       It would.

20          BENNY WAMPLER: In your application, formations to  
21 be produced, you say all coal seams and associated strata  
22 below the Jawbone I Seam of coal, all that's more  
23 particularly described in the annexed proposed order. Is  
24



1 there any changes to that? Did you modify that with this  
2 discussion?

3 LESLIE K. ARRINGTON: Not that I know of. I mean,  
4 we may not come all the way up to the Jawbone Seam. We may  
5 not include it. It's according to what the depth of the  
6 Jawbone Seam is. And in most cases, we do not...most all  
7 cases, we do not come up to the Jawbone.

8 Q. Well, in reality, I think we need to point  
9 out that the Middle Ridge Field Rules, regardless of what  
10 your application might say, start at the Jawbone if it's  
11 below drainage. Do you understand that?

12 A. Yes, sir.

13 Q. So, if it's below drainage, you're going to  
14 produce and if it's not, you're not?

15 A. Correct.

16 BOB WILSON: There are also restrictions in that  
17 field rule regarding depth below...depth where no water  
18 (inaudible).

19 MARK SWARTZ: Right.

20 LESLIE K. ARRINGTON: Yes. We always take those  
21 things into account.

22 SANDRA RIGGS: So, it's in accordance with the  
23 Middle Ridge Field Rules?

24

--

1           A.       Right.

2           SANDRA RIGGS:   Whatever that formation is.

3           MARK SWARTZ:   No, I understand.   But the Middle

4 Ridge pretty much addressed that.   So, if we can...if we can

5 produce it consistent with the Middle Ridge rules, we will if

6 we can, or if it's above drainage.   I mean, there's nothing

7 there to produce.   That's what drives the involvement or non-

8 involvement of the Jawbone.

9           BENNY WAMPLER:   We will clarify that there was

10 nothing in this order that was trying to modify---?

11          MARK SWARTZ:   Correct.

12          BENNY WAMPLER:   ---the Middle Ridge order---?

13          MARK SWARTZ:   Right.   Understood.   Right.

14          BENNY WAMPLER:   ---Field rules?   Any questions from

15 members of the Board?

16                (No audible response.)

17          BENNY WAMPLER:   Do you have anything further, Mr.

18 Swartz?

19          MARK SWARTZ:   No, sir.

20          BENNY WAMPLER:   Is there a motion?

21          DENNIS GARBIS:   I move to accept that.

22          CLYDE KING:    Second.

23          BENNY WAMPLER:   Motion is second for approval.

24

1 Any further discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor, signify by saying

4 yes.

5 (All members say yes.)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: You have approval. The next item

9 on the agenda is a petition from Pocahontas Gas Partnership

10 for pooling of coalbed methane unit under the Oakwood Coalbed

11 Methane Gas Field I Order, identified as CC-36. This is

12 docket number VGOB-02-07/16-1041. We'd ask the parties that

13 wish to address the Board in this matter to come forward at

14 this time.

15 MARK SWARTZ: Mark Swartz and Les Arrington.

16 Mr. Chairman, we have several units that only involve VDOT,

17 and this happens to be one of them.

18 BENNY WAMPLER: Okay.

19 MARK SWARTZ: And I would propose, if it's okay

20 with the Board, that we combine CC-36, which you just called,

21 with FF-29, which is the next docket item, and also with

22 docket item number 19, BD-30. The only respondent in each of

23 these units is VDOT. I thought that might save us some time.

24

1           BENNY WAMPLER: Any objection from anyone to do  
2 that? Any other parties concerned about that?  
3           (No audible response.)  
4           BENNY WAMPLER: Is that okay with the members of  
5 the Board?  
6           (No audible response.)  
7           BENNY WAMPLER: Mr. Swartz, several people are here  
8 waiting today. You mentioned that you wanted to withdraw a  
9 couple. I just want to make sure you're not going to  
10 withdraw something that people are waiting for.  
11          MARK SWARTZ: I'm not going to withdraw. I'm going  
12 to continue.  
13          BENNY WAMPLER: Continue. Okay, then.  
14          MARK SWARTZ: We had written...or at least I had  
15 written Mr. Wilson late last week about the need to continue  
16 AV-124 and it subsequently developed that we had the same due  
17 diligence issues with regard to AV-125, and we need to  
18 continue those.  
19          BENNY WAMPLER: That's item 17 and 18 on the  
20 Board's docket number.  
21          MAX LEWIS: 17 and 18?  
22          BENNY WAMPLER: Yes, 17 and 18. And just for the  
23 folks that are here, just so you know as he said, AV-124 is  
24

1 VGOB-02-08/20-1050; and AV-125 is VGOB-02-08/20-1051. If  
2 there are no objections, those will be continued until next  
3 time.

4           MARK SWARTZ: Then one other...this is not a  
5 continuance. It's a combined discussion, but with regard  
6 ...and this is the last housekeeping matter. With regard to  
7 docket items 22, 23 and 24, we had noticed this and then  
8 discovered that we had missed a couple of heirs. We have  
9 some people that I suspect have traveled here from out of  
10 state on those. They may also be involved in AV-124 and 125.  
11 And what we would propose to 22, 23 and 24 is combine those  
12 for hearing, put on our evidence so that people who are here  
13 and have traveled here can participate fully in that hearing.  
14 Then we will mail and publish with regard to the two people  
15 that didn't get notice of this hearing so that they can come  
16 next month if they chose to come. But at least the people  
17 who are here would not have to make two trips.

18           BENNY WAMPLER: Any objection?

19           MARK SWARTZ: We're not there yet, but that is the  
20 last housekeeping matter. And in terms of combining stuff, I  
21 would also propose to combine...I'm sorry, combine 20, 21 and  
22 25 when we get to that.

23           BENNY WAMPLER: I'll let you remind me of that.

24

--

1                   MARK SWARTZ:   Okay.

2                   BENNY WAMPLER:   Go back to the one I just called.  
3   I'm going to also go ahead and call, since there was no  
4   objection to doing this, petition from Pocahontas Gas  
5   Partnership for pooling of coalbed methane unit under the  
6   Oakwood Coalbed Methane Gas Field Order identified as FF-29,  
7   docket number VGOB-02-07/16-0...sorry, -1042.   And a petition  
8   for Pocahontas Gas Partnership for pooling of coalbed methane  
9   unit under the Oakwood Coalbed Methane Gas Field I Order  
10   identified as DD-30, docket number VGOB-02-08/20-1052.   We'd  
11   ask the parties that wish to address the Board in these  
12   matters to come forward at this time.

13                  MARK SWARTZ:   Mark Swartz and Les Arrington on  
14   those as well.

15                  BENNY WAMPLER:   The record will show that there are  
16   no others.   You may proceed.

17

18                                   LESLIE K. ARRINGTON

19                                   DIRECT EXAMINATION

20   QUESTIONS BY MR. SWARTZ:

21                   Q.       Les, I'm going to remind you, you're still  
22   under oath.

23                   A.       Yes.

24

--

1 Q. State your name for the record.

2 A. Leslie K. Arrington.

3 Q. Who do you work for?

4 A. Consol Energy and CNX Gas Company, LLC.

5 Q. With regard to these three units that we've

6 combined for hearing, who is the applicant?

7 A. Pocahontas Gas Partnership.

8 Q. And in each case, is there only one

9 respondent?

10 A. Yes.

11 Q. And sometimes you call it the Commonwealth

12 of Virginia Department of Highways, sometimes Virginia

13 Department of Transportation, and sometimes Commonwealth of

14 Virginia Department of Transportation.

15 A. Yes.

16 Q. Are those three ways of speaking of the same

17 entity?

18 A. It is.

19 Q. Are these all Oakwood I units?

20 A. Yes, they are.

21 Q. What did you do to notify VDOT of the

22 hearing today?

23 A. Yes, in unit CC-36, we mailed on June 14th

24

1 of 2002. We published in the Daily Telegraph on June 25th of  
2 2002. On FF-29, we mailed on June 14th of 2002, published in  
3 the Daily Telegraph on June 24th, 2002. On DD-30, we mailed  
4 on July the 19th of 2002, and we published in the Daily  
5 Telegraph on July the 27th of 2002.

6 Q. And with regard to each of these three  
7 units, have you this morning filed proof of publication and  
8 certifications with regard to the mailings that you've just  
9 discussed?

10 A. Yes, we did.

11 Q. When you published, what did you publish?

12 A. We published the notice of hearing and  
13 associated location map.

14 Q. Now, you've listed the respondents on the  
15 notice. You've also, I assume, listed the respondent on  
16 Exhibit B-3, correct?

17 A. Yes, we did.

18 Q. Do you wish to add anybody as a respondent  
19 today?

20 A. No.

21 Q. And obviously you don't wish to dismiss  
22 anyone as respondent?

23 A. That's correct.

24

--



1 Q. Now, the applicant is Pocahontas Gas  
2 Partnership. Is that a Virginia general partnership?  
3 A. Yes, it is.  
4 Q. And are the two partners Consolidation Coal  
5 Company and Consol Energy?  
6 A. Yes, it is.  
7 Q. Is Pocahontas Gas Partnership also seeking  
8 to be designated as the Board's operator if these  
9 applications...pooling applications are approved?  
10 A. Yes, they are.  
11 Q. Is Pocahontas Gas Partnership authorized to  
12 do business in the Commonwealth?  
13 A. Yes, it is.  
14 Q. Has it registered with the Department of  
15 Mines, Minerals and Energy, and does it have a blanket bond  
16 on file as required by law?  
17 A. Yes, it does.  
18 Q. I believe that each one of these Oakwood  
19 units is indeed an 80...I take that back. C-36 is an 80  
20 acre Oakwood unit?  
21 A. Yes, it is.  
22 Q. FF-29 is one of the boundary make up Oakwood  
23 units that is actually 89.51 acres, correct?

24  
~

1           A.       That is correct.

2           Q.       And DD-30 is a standard 80 acre unit,  
3 correct?

4           A.       Yes.

5           Q.       So, the math in the various units is  
6 predicated on 80 acres in the two where that would apply, and  
7 on 89.51 acres with regard to FF-29, correct?

8           A.       That's correct.

9           Q.       Would you be willing to offer VDOT the same  
10 terms that you offer the other folks that you've leased in  
11 these units?

12          A.       Yes, we would.

13          Q.       And what would those lease terms be?

14          A.       Yes. Our standard lease for coalbed methane  
15 is a dollar per acre per year, with a five year paid up term,  
16 with a one-eighth production royalty.

17          Q.       And would you recommend those terms to the  
18 Board to cover the situation in a Board order pertaining to  
19 folks who might be deemed to have been leased?

20          A.       Yes, we would.

21          Q.       How many wells are you proposing in each of  
22 these units?

23          A.       One.

24

1 Q. And are they intended to be a frac well?

2 A. Yes, they are.

3 Q. And in each instance, is the well location,

4 to the extent that they have been drilled, in the drilling

5 window?

6 A. Yes, they are.

7 Q. And I think that all three of these wells

8 have been drilled?

9 A. Yes, they have.

10 Q. Could you go through and give the permit

11 numbers and the depths and the cost estimate with regard to

12 each well, taking them a unit at a time?

13 A. Yes. Well CC-36...it's permit number is

14 4990. It was issued June 15th, 2001, drilled November 2nd,

15 2001. The total depth is 2,442 feet. It's estimated cost

16 was \$244,354.54. Well FF-29, it's permit number is 5338,

17 issued on April 29th of 2002, estimated depth is 2,411 feet.

18 The estimated cost \$228,022.12. Well DD-30 permit number is

19 5146, issued November 14, 2001, drilled January 3rd, 2002 to

20 a depth of 1,689 feet, at a cost of \$214,623.22.

21 Q. The target formation here would be?

22 A. Actually the target formation was Pocahontas

23 3 Seam, but we will drill on down to the top of the red and

24

1 green shales to see if there is any additional seams there.

2 Q. And since these are Oakwood units, we're  
3 talking about starting at the Tiller and going down from  
4 there?

5 A. All coal seams below the Tiller, yes.

6 Q. With regard to the status of leasing and  
7 ownership in each unit, let's start with CC-36.

8 A. Yes.

9 Q. And look at Exhibit A, page two.

10 A. Yes.

11 Q. Tell the Board where you stand on this.

12 A. Yes. We have 100% of the coal leased  
13 beneath this unit; 100% of the coal CBM leased; 98.2750% of  
14 the oil and gas coalbed methane leased; and we're seeking to  
15 pool 1.725% of the oil and gas coalbed methane interest.

16 On unit FF-29, we have 99.1953% of the coal leased  
17 beneath this unit; and we have 99.1953% of the CBM leased  
18 from the coal owner within this unit; and we also have  
19 99.1953% of the oil and gas interest coalbed methane leased  
20 in this unit. We're seeking to pool 0.8047% of the coal, oil  
21 and gas interest in FF-29.

22 In DD-30, we have 100% of the coal owner's coalbed  
23 methane leased; 100% of the coal eased beneath the unit;

24

--

1 97.175% of the oil and gas owner's coalbed methane interest.

2 We're seeking to pool 2.825% of the oil and gas coalbed  
3 methane interest.

4 Q. Now, let's look at escrow requirements, if  
5 any, split agreements on a unit by unit basis.

6 A. Yes.

7 Q. In C-36, it appears to me that there is not  
8 an escrow requirement?

9 A. Yes, tract 3-B.

10 Q. I'm talking with regard to the respondent or  
11 anybody else, right?

12 A. There's escrow---.

13 Q. I take that back. There is one.

14 A. Tract 3-B.

15 Q. So, 3-B needs to be escrowed in CC-36  
16 because of a conflict?

17 A. Correct.

18 Q. We've got a split agreement in CC-36,  
19 correct?

20 A. Yes, we do.

21 Q. And you're requesting that the Board allow  
22 the operator to pay Coal Mountain Pocahontas Gas Partnership  
23 with regard to tract 3-A consistent with the terms of their  
24

1 split agreement rather than into the escrow account?

2 A. That's correct, we are.

3 Q. Let's turn now to unit FF-29, okay.

4 A. Yes.

5 Q. In that unit, Exhibit E discloses a need for

6 escrow, correct?

7 A. For tract 2, correct.

8 Q. And that is because of conflicting claims?

9 A. Yes.

10 Q. And also in unit FF-29, there is a split

11 agreement in place, and you're asking the Board in its order

12 to allow the operator to pay Coal Mountain Trust and New

13 Garden Coal Corporation with regard to tract one---?

14 A. Yes.

15 Q. ---consistent with the terms of their split

16 agreement rather than paying the royalty into escrow?

17 A. Yes.

18 Q. Lastly, with regard to DD-30, we've got an

19 Exhibit E which again shows a need for escrow by reason of

20 conflicting claims, correct?

21 A. Yes, tract 1-A and tract 1-C.

22 Q. And tract 1-A, you've got Coal Mountain

23 Mining and then you've got a whole bunch of folks with oil

24

1 and gas fee ownership, and that's why the funds with regard  
2 to 1-A need to be escrowed because they are in conflict,  
3 correct?

4 A. Well...let me look at the tract and make  
5 sure.

6 Q. 1-A.

7 A. Tract 1-A, right.

8 Q. Okay. Then on 1-C, Coal Mountain and  
9 Commonwealth are in conflict and that requires escrow?

10 A. That's right.

11 Q. If we turn to Exhibit EE, this would allow  
12 ...well, this indicates that the folks that we've listed as  
13 requiring escrow in 1-A have actually entered into a royalty  
14 split agreement.

15 A. Certain parties.

16 Q. Okay. Not all?

17 A. Not all the parties, correct.

18 Q. So, with regard to the parties listed on  
19 Exhibit EE within tract 1-A, they have entered into a split  
20 agreement and you're requesting that the Board allow those  
21 parties to receive their funds directly from the operator  
22 consistent with the terms of their split agreement, correct?

23 A. Correct, we are.

24

--

1 Q. And then there's also a split agreement with  
2 regard to tract 1-B between Coal Mountain and New Garden and  
3 you're asking for the same relief in that regard?

4 A. Yes, we are.

5 BENNY WAMPLER: We need a revised Exhibit E, I  
6 think, if I heard you correctly.

7 LESLIE K. ARRINGTON: You'll notice...go back to  
8 Exhibit...the Exhibit E, and if you'll look at the oil and  
9 gas ownership, notice we've got the first person listed as a  
10 letter C.

11 MARK SWARTZ: The lists are not identical, so I  
12 don't think we---.

13 LESLIE K. ARRINGTON: It's different individuals  
14 within that group of heirs that's done royalty splits.

15 MARK SWARTZ: For example---.

16 BENNY WAMPLER: I understand what you're saying. I  
17 thought I saw a name here on both.

18 MARK SWARTZ: Hopefully not.

19 BENNY WAMPLER: I see that it's not. Go ahead.

20 Q. Mr. Arrington, with regard to these three  
21 units, CC-36, FF-29 and DD-30, is it your opinion that the  
22 development plan that's disclosed by your application and  
23 exhibits, which is to drill one frac well in each unit, is a  
24



1 reasonable plan to develop the coalbed methane under these  
2 units?

3 A. Yes, it is.

4 Q. And is it also your opinion that if these  
5 units are pooled and allowed to produce, that the pooling  
6 order and other agreements will protect the correlative  
7 rights of all of the owners and claimants to the coalbed  
8 methane?

9 A. Yes, it will.

10 MARK SWARTZ: That's all I have, Mr. Chairman.

11 BENNY WAMPLER: Questions from members of the  
12 Board?

13 KEN MITCHELL: Mr. Chairman.

14 BENNY WAMPLER: Mr. Mitchell.

15 KEN MITCHELL: This may be a technical point. On  
16 all three documents, CC-36, FF-29 and DD-30, under the  
17 affidavit of due diligence, only...only DD-30 has a signature  
18 from the recipient; and I do realize the recipient is VDOT.  
19 I in no way infer that you didn't mail it. I just infer that  
20 the post office did not give you a signature to prove that  
21 you did mail it. I do believe you mailed it. I think it's a  
22 technical point of view. But, CC-36, FF-29 do not have  
23 signatures. DD-30 does have...a VDOT representative did sign  
24

1 for it. I don't know how technical that is, but somebody  
2 should sign for it.

3 MARK SWARTZ: That's why we publish.

4 KEN MITCHELL: Yes. And people in VDOT would see  
5 the publishing, so I do not have a problem with it other  
6 than---.

7 MARK SWARTZ: Right, just to make that observation.

8 KEN MITCHELL: Right, right.

9 BENNY WAMPLER: Anything further from members of  
10 the Board?

11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further, Mr.  
13 Swartz?

14 MARK SWARTZ: No, Mr. Chairman.

15 BENNY WAMPLER: Is there a motion?

16 CLYDE KING: So moved.

17 KEN MITCHELL: Second the motion.

18 BENNY WAMPLER: Motion and second. Any further  
19 discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying  
22 yes.

23 (All members say yes.)

24

1           BENNY WAMPLER: Opposed, say no.

2           (No audible response.)

3           BENNY WAMPLER: You have approval. The next item  
4 on the agenda is a petition from Pocahontas Gas Partnership  
5 for pooling of a coalbed methane unit under the Oakwood  
6 Coalbed Methane Gas Field 1 Order, identified as J-45. This  
7 is docket number VGOB-02-07/16-1043. We'd ask the parties  
8 that wish to address the Board in this matter to come forward  
9 at this time.

10          MARK SWARTZ: Mark Swartz and Les Arrington.

11          (Exhibits are distributed to the Board.)

12          BENNY WAMPLER: The record will show there are no  
13 others. You may proceed.

14

15                           LESLIE K. ARRINGTON

16                           DIRECT EXAMINATION

17   QUESTIONS BY MR. SWARTZ:

18           Q.       Les, will you state your name again?

19           A.       Leslie K. Arrington.

20           Q.       Who do you work for?

21           A.       Consol Energy and CNX Gas Company, LLC.

22           Q.       I will remind you that you are still under  
23 oath.

24

--

1           A.       Yes.

2           Q.       With regard to J-45, who is the applicant?

3           A.       Pocahontas Gas Partnership.

4           Q.       And who is proposed to be the designated  
5 operator?

6           A.       Pocahontas Gas Partnership.

7           Q.       Have you listed the respondents in J-45 in  
8 the notice of hearing and in the revised Exhibit B-3 that was  
9 filed today?

10          A.       Yes, that's correct. We have.

11          Q.       And the correction or the change in Exhibit  
12 B-3 that was filed today was that you...one of the  
13 respondents went from an unknown to a person with an address,  
14 correct?

15          A.       That's correct.

16          Q.       And did you mail to that person?

17          BENNY WAMPLER: You're going to tell us who that  
18 is, right?

19          A.       The added...the person was Ronnie Dale  
20 Jewell, and we do have an address for him at this point.

21          MARK SWARTZ: You need to come up here then and let  
22 me put you under oath.

23                (Anita Tester approaches.)

24

1                    BENNY WAMPLER: You're reminded you were previously  
2 sworn.

3                    ANITA TESTER

4                    DIRECT EXAMINATION

5 QUESTIONS BY MARK SWARTZ:

6                    Q. Anita, you need to state your name for us.

7                    A. Anita Tester.

8                    Q. Who do you work for?

9                    A. Consol Energy.

10                   Q. You're still under oath, okay?

11                   A. Right.

12                   Q. You prepared a revised Exhibit B-3 for J-45,  
13 is that correct?

14                   A. Yes.

15                   Q. What's the change on the corrected or  
16 revised exhibit when we compare it to the original one?

17                   A. We had previously listed Ronnie Dale Jewell  
18 as address unknown.

19                   Q. He is in tract 5-1-C, correct?

20                   A. Yes.

21                   Q. And in your revised Exhibit, you've got an  
22 address for him?

23                   A. Yes.

24

--

1                   Q.       Do you know whether or not you mailed to him  
2 after you got his address?

3                   A.       I did mail it to him. I just left it out of  
4 the exhibits.

5                   Q.       Can you tell from your files or your  
6 recollection as to when that mailing would have occurred?

7                   A.       No.

8                   Q.       Bear in mind that this is a hearing that was  
9 continued from July and you've got a revised exhibit of 7/15.  
10 Does that refresh your recollection at all as to whether or  
11 not you may have mailed in July?

12                  A.       I'm sure it...I'm sure it was immediately  
13 after I received the address, but I would say somewhere  
14 around the middle of July.

15                  Q.       Okay.

16                  A.       I can provide a copy of the card and receipt  
17 when I get back.

18                  Q.       Okay. Would you do that?

19                  A.       Yes.

20                               LES ARRINGTON

21                               DIRECT EXAMINATION (cont.)

22 QUESTIONS BY MARK SWARTZ:

23                  Q.       Les, do you have any follow up on that?

24

--

1           A.       No. Well, yes, I do. Actually we had a  
2 meeting with (inaudible) at our office and one of the Jewell  
3 heirs is here today. So, we do have a little history with  
4 them.

5           Q.       And with regard to mailing, is it your  
6 recollection that you did mail?

7           A.       Yes, it was, and we did forget to provide  
8 it.

9           Q.       Have you listed, Les, all of the respondents  
10 that you wish to pool in the revised Exhibit B-3?

11          A.       Yes, we did.

12          Q.       Is there anyone that you want to subtract or  
13 dismiss today?

14          A.       No.

15          Q.       This unit is an Oakwood 1 unit, is that  
16 correct?

17          A.       Yes, it is.

18          Q.       Is it an 80 acre unit?

19          A.       Yes.

20          Q.       How many wells are you proposing?

21          A.       One.

22          Q.       I notice on this plat, the well is not  
23 located, do you see that?

24

--

1           A.       J...that's correct.

2           Q.       Is that because it hasn't been located yet?

3           A.       No, it has been located.

4           Q.       Do you have any information with you that

5 would allow you to tell the Board whether or not the location

6 is proposed to be within the drilling window?

7           A.       Yes, it is. I know for a fact it is in the

8 drilling window.

9           Q.       Okay. And you're proposing one well for

10 this unit?

11          A.       Yes, we are.

12          Q.       Is it a frac well?

13          A.       Yes.

14          Q.       And this unit, the plat shows it's 80 acres,

15 correct?

16          A.       Yes, it is.

17          Q.       And this well would be from what coal seam

18 down to what coal seam to production?

19          A.       All coal seams below the Tiller, down to the

20 top of the red and green shales.

21          Q.       Which are below the Pocahontas number III,

22 correct?

23          A.       Yes, that's correct. As far as the location

24



1 of the well, I have the final drilled location plat.

2 Q. And the location is roughly in the center of  
3 a circle I've drawn which is in the northwest corner,  
4 correct?

5 A. Yes, it is.

6 Q. And within the drilling window?

7 A. Correct, it is.

8 BENNY WAMPLER: We'll require a revised certified  
9 plat showing that well location.

10 A. Actually I have a copy of the plat that we  
11 filed.

12 BENNY WAMPLER: Okay.

13 Q. The Pocahontas Gas Partnership is a Virginia  
14 general partnership?

15 A. Yes, it is.

16 Q. Is it authorized to do business in the  
17 Commonwealth?

18 A. Yes, it is.

19 Q. Has it registered with the Department of  
20 Mines Minerals and Energy, and does it have a blanket bond on  
21 file?

22 A. Yes, it does.

23 Q. There are two partners in Pocahontas Gas  
24

1 Partnership?

2 A. Yes.

3 Q. Who are they?

4 A. Consol Energy and Consolidation Coal  
5 Company.

6 Q. With regard to the standing in this unit, if  
7 you could take a look at Exhibit A, page 2 and indicate to  
8 the Board what you have leased or what you own and what it is  
9 you're seeking to pool?

10 A. Yes. We have leased 99.075% of the coal,  
11 oil and gas, and coal below this unit. We're seeking to pool  
12 0.925 of the coal, oil and gas.

13 Q. With regard to the percentages of the folks  
14 in this unit that are respondents, if you'll just turn for a  
15 minute with me to the revised Exhibit B-3, you will notice  
16 that there is a percentage there after everybody's name in  
17 the right hand column.

18 A. That's correct.

19 Q. How was that percentage interest in unit  
20 calculated?

21 A. Their total acreage within that unit  
22 boundary divided by 80 and that gives you the interest within  
23 the unit.

24

--

1                   Q.       Okay. And if somebody wanted to estimate  
2 how much of a dollar in royalty would flow to them given  
3 their interest, they would take 12 1/2% interest, which is  
4 the royalty, right?

5                   A.       Uh-huh.

6                   Q.       Times their percentage?

7                   A.       Right.

8                   Q.       Times it out?

9                   A.       Correct.

10                  Q.       With regard to the participation cost, in  
11 other words, if they wanted to be a partner and to try and  
12 determine what their up front contribution to the unit would  
13 be, they would take the estimated well cost, which we'll get  
14 to in a minute, and multiply their percentage times that, and  
15 that would give them the amount of the deposit they would  
16 have to make, correct?

17                  A.       Correct.

18                  Q.       And the same percentages would pertain to  
19 carried interest multipliers and so forth, if they wanted to  
20 be carried?

21                  A.       Yes.

22                  Q.       Okay. Let's turn for a minute to the well  
23 in this J-45 unit. Why don't you tell the Board when it was  
24

1 drilled and the amount of the cost estimate and the depth?

2           A.       The permit number is 4474, issued 2/10 of  
3 2000...it was modified 2/10 of 2001. We've had several  
4 modifications. It was drilled in November of 2000 and at a  
5 cost of \$211,925.25.

6           Q.       And the total depth that's reported on your  
7 Exhibit C?

8           A.       1853 feet.

9           Q.       Now, the 99% that you've leased here, could  
10 you tell the Board what the typical lease terms were that you  
11 offered the folks that you were able to lease?

12          A.       Our standard coalbed methane lease is a  
13 dollar per acre per year, with a five year paid up term, and  
14 a one-eighth production royalty.

15          Q.       And would you be willing to offer that...  
16 continue to offer that to the folks that you are pooling  
17 today?

18          A.       Yes, we would.

19          Q.       And would you recommend those terms to the  
20 Board to be inserted in any order it might enter with regard  
21 to folks who are deemed to have been leased?

22          A.       Yes, we would.

23          Q.       Is it your opinion that the plan for  
24

1 development here, which is to drill one frac well within the  
2 drilling unit in this...within the drilling window in this  
3 unit is a reasonable plan to develop the coalbed methane  
4 under J-45?

5 A. Yes, it is.

6 Q. And in the event that the Board would enter  
7 a pooling order, given the existence of a pooling order,  
8 would the leases that you've entered into, would that serve  
9 to protect the correlative rights of all owners and claimants  
10 in the unit?

11 A. Yes, it is.

12 Q. With regard to escrow...let's see, we've got  
13 an Exhibit E here.

14 A. Yes.

15 Q. There's an Exhibit E, so there's escrow  
16 required with regard to what tract?

17 A. Six.

18 Q. And is that because of a conflict?

19 A. Yes, it is.

20 Q. And having located the one person you didn't  
21 have an address for at the first point, there is now no  
22 requirement for escrow for unknowns?

23 A. That's correct.

24

--

1           MARK SWARTZ: That's all I have, Mr. Chairman.  
2           BENNY WAMPLER: Questions from members of the  
3 Board.  
4           (No audible response.)  
5           BENNY WAMPLER: Is there a motion?  
6           KEN MITCHELL: Motion for approval, Mr. Chairman.  
7           DENNIS GARBIS: I second.  
8           BENNY WAMPLER: Motion is second. Any further  
9 discussion?  
10          (No audible response.)  
11          BENNY WAMPLER: All in favor, signify by saying  
12 yes.  
13          (All members say yes.)  
14          BENNY WAMPLER: Opposed, say no.  
15          (No audible response.)  
16          BENNY WAMPLER: You have approval. Let's take a  
17 five minute stretch break.  
18          (Off record.)  
19          BENNY WAMPLER: I'd ask that everyone come to  
20 order, please. The next item on the agenda is a petition  
21 from Pocahontas Gas Partnership for pooling of a coalbed  
22 methane unit under the Oakwood Coalbed Methane Gas Field 1  
23 Order identified as R-47. This is docket number VGOB-02-  
24

1 07/16-1044. We'd ask the parties that wish to address the  
2 Board in this matter to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington.  
4 Mark Swartz and Les Arrington.

5 (Exhibits are distributed to the Board.)

6 BENNY WAMPLER: The record will show there are no  
7 others. You may proceed.

8

9 LESLIE K. ARRINGTON

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12 Q. Les, you need to state your name?

13 A. Leslie K. Arrington.

14 Q. Who do you work for?

15 A. Consol Energy and CNX Gas Company, LLC.

16 Q. You understand you're still under oath?

17 A. Yes.

18 Q. Is this an Oakwood 1 unit?

19 A. Yes, it is.

20 Q. 80 acres?

21 A. Yes.

22 Q. Who is the applicant?

23 A. Pocahontas Gas Partnership.

24

--

1                   Q.       And is Pocahontas Gas Partnership requesting  
2 that if the application is approved, that it be designated to  
3 be the Board's operator?

4                   A.       Yes.

5                   Q.       You only got one respondent here?

6                   A.       Yes.

7                   Q.       And that's folks that you cannot locate?

8                   A.       No, we cannot.

9                   Q.       So you didn't mail?

10                  A.       We did not.

11                  Q.       You published?

12                  A.       We did.

13                  Q.       What information have you provided to the  
14 Board with regard to publication?

15                  A.       We published this in the Daily Telegraph on  
16 June 21st of 2002, and we published the notice of hearing and  
17 location map.

18                  Q.       Do you wish to add anybody as a respondent  
19 today?

20                  A.       No, we do not.

21                  Q.       And obviously, you don't want to dismiss  
22 these folks?

23                  A.       Correct.

24

--



1           Q.       Is Pocahontas Gas Partnership a Virginia  
2 general partnership?

3           A.       Yes, it is.

4           Q.       Does it have two partners who are  
5 Consolidation Coal Company and Consol Energy, Inc.?

6           A.       That's correct.

7           Q.       Is Pocahontas Gas Partnership licensed to do  
8 business, or authorized to do business in the Commonwealth?

9           A.       Yes, it is.

10          Q.       Has it registered with the DMME, and does it  
11 have a blanket bond on file?

12          A.       Yes.

13          Q.       In terms of the interest in this unit that  
14 you have acquired either through lease or ownership, if you  
15 would turn to Exhibit A page two and tell the Board about  
16 that.

17          A.       Yes. We have leased 100% of the coal owners  
18 coalbed methane interest leased. We have 100% of the coal  
19 leased beneath this unit; and we have 92.5625% of the oil and  
20 gas owners coalbed methane leased. We're seeking to pool  
21 7.4375% of the oil and gas coalbed methane interest.

22          Q.       And is escrow going to be required?

23          A.       Yes, it is for both the conflict and the  
24

1 unknown owners.

2 Q. The terms that you would ask the Board to  
3 insert in an order with regard to folks who are deemed to  
4 have been leased would be what?

5 A. For a coalbed methane lease it's a dollar  
6 per acre per year, with a five year paid up term, and a one-  
7 eighth production royalty.

8 Q. This unit would be proposed to produce from  
9 the Tiller Seam...from below the Tiller down to where?

10 A. To the red and green shales. It was drilled  
11 to a total depth of 2,259 feet, at a cost of \$229,221.30.

12 Q. And when was it drilled?

13 A. It was drilled March 2nd of 2000.

14 Q. In the course of an audit by ILM, who is the  
15 new royalty accounting folks, right?

16 A. Yes.

17 Q. Was it determined that this unit which was  
18 initially set up by Conoco as a voluntary unit in fact needed  
19 to pool?

20 A. Yes, it did.

21 Q. And that's the reason for this application?

22 A. It is.

23 Q. So, the Board order needs to reflect that  
24

--

1 when the escrow account is open, okay?

2 A. Uh-huh.

3 Q. That the amount attributable to past  
4 production be deposited when that escrow account is opened so  
5 that you start with an appropriate amount, correct?

6 A. Yes.

7 Q. And then you will recoup from...I assume you  
8 have been paying Hurt/McGuire?

9 A. Actually, I think they had an account set up  
10 for that.

11 Q. Once it was discovered?

12 A. Yes.

13 Q. And how many wells are we talking about  
14 here?

15 A. One.

16 Q. And is it in the drilling window?

17 A. Yes, it is.

18 Q. And with regard to the protection of  
19 correlative rights, if the Board approves this application  
20 and authorizes you to pay accrued royalties into escrow and  
21 future royalties into escrow, that would then serve to  
22 protect the correlative rights of these unknown claimants,  
23 correct?

24

1           A.       Yes, that's why we're here.   Yes.

2           Q.       And is it your opin...your further opinion

3   that the development that's disclosed by the application,

4   specifically one frac well within the drilling window of this

5   unit is a reasonable method or plan to develop the coalbed

6   methane under this unit?

7           A.       Yes, it is.

8           MARK SWARTZ:   That's all I have.

9           BENNY WAMPLER:   Questions from members of the

10   Board.

11           (No audible response.)

12           BENNY WAMPLER:   Is there a motion?

13           KEN MITCHELL:   Motion to approve.   Motion for

14   approval, Mr. Chairman.

15           BENNY WAMPLER:   Second?

16           DENNIS GARBIS:   Second.

17           BENNY WAMPLER:   Second.   Any further discussion?

18           (No audible response.)

19           BENNY WAMPLER:   All in favor, signify by saying

20   yes.

21           (All members say yes.)

22           BENNY WAMPLER:   Opposed, say no.

23           (No audible response.)

24

~

1           BENNY WAMPLER: You have approval.

2           MARK SWARTZ: Thank you.

3           BENNY WAMPLER: The next item on the agenda is a  
4 petition from Evan Energy Company, LC, for a well location  
5 exception for proposed well No. 767. This is docket number  
6 VGOB-02-07/16-1045. We'd ask the parties that wish to  
7 address the Board to come forward at this time.

8           (Jerry Hamilton is duly sworn.)

9           JIM KISER: Mr. Chairman, members of the Board, Jim  
10 Kiser on behalf of Evan Energy Company. Our witness in this  
11 matter will be Mr. Jerry Hamilton. He has just sworn Mr.  
12 Hamilton.

13           (Exhibits are distributed.)

14

15

16

17

18                           JERRY HAMILTON

19 having been duly sworn, was examined and testified as  
20 follows:

21                           DIRECT EXAMINATION

22   QUESTIONS BY JIM KISER:

23           Q.       If you would state your name for the Board,

24

--

1 who you're employed by and in what capacity?

2 A. Jerry Hamilton, Evan Energy Company, LC,  
3 Director of Environmental and Safety.

4 Q. And you've previously testified before the  
5 Virginia Gas & Oil Board in hearings in which your employer  
6 was seeking a location/exception or variance, and the Board  
7 has accepted your qualifications as an expert witness in  
8 these matters?

9 A. Yes, I have; and yes, they have.

10 Q. Do your responsibilities include the land  
11 involved here in the and in the surrounding area?

12 A. Yes, it does.

13 Q. And are you familiar with the application  
14 for location exception for well 767 and the relief requested  
15 in that application?

16 A. Yes, I am.

17 Q. Have all interested parties been notified as  
18 required by Section 4(B) of the Virginia Gas and Oil Board  
19 Regulations?

20 A. Yes, they have.

21 Q. Would you indicate for the Board at this  
22 time the ownership of the oil and gas underlying the unit for  
23 well number 767?

24

--

1           A.       Little Black Mountain Land Company 80%,  
2 Murphy Land Company 20%.

3           Q.       And does Evan Energy Company have the right  
4 to operate the reciprocal wells?

5           A.       Yes, we do.

6           Q.       Are there any correlative rights issues?

7           A.       No.

8           Q.       Mr. Hamilton, you've distributed a narrative  
9 and a---?

10          A.       Location map.

11          Q.       ---location map to the Board members prior  
12 to your testimony. In conjunction with that Exhibit, can you  
13 explain for the Board the reason why Evan is seeking this  
14 location exception?

15          A.       Yes. From DLC-1, we are proposing to put  
16 well 767, 2269 feet instead of the required 2500 feet.  
17 Dulcimer Land Company and Murphy Land Company and their  
18 operating company of Powell Mountain Coal have a 12,480 volt  
19 power line coming into their prep plant and load out  
20 facility. The well 767, if it were put on the 2500 foot  
21 spacing would be directly under this. Sight inspections and  
22 rough measurements of this, we have a 130 foot of clearance,  
23 ground clearance, on the 12480 line. Our drill mast is over

24

--

1 100 foot high. So, from a safety concern, I asked that the  
2 well be moved back an ample distance away from this power  
3 line so that we have no bleed off, we have no safety...we  
4 could have a disaster with this. We definitely don't want  
5 that drill rig close to that power line. To go on the other  
6 side of the power line and increase the spacing over 2500  
7 foot, we get into an environmental concern with an extremely  
8 steep area. There would have to be blasting to create a  
9 location to set the drill rig, and I would not allow any  
10 blasting that close to a power line, or a power line of this  
11 nature with this many volts running through it.

12 Q. Now, in the event the location exception  
13 were not granted, would you project the estimated loss of  
14 reserves resulting in waste?

15 A. 400 million cubic feet.

16 Q. And what's the total depth of the proposed  
17 well under the plan of development?

18 A. 5950 foot.

19 Q. Will this be sufficient to penetrate and  
20 test the common sources as supplied in the subject  
21 formations?

22 A. Yes, it will.

23 Q. And is the applicant requesting this  
24



1 location exception to cover conventional gas reserves to  
2 include the designated formations from the surface to the  
3 total depth drilled?

4 A. Yes.

5 Q. In your professional opinion, would the  
6 granting of this location exception be in the best interest  
7 of preventing waste, protecting correlative rights and  
8 maximizing the recovery of the gas reserves and protecting  
9 safety issues and environmental concerns for the unit  
10 underlying the well for 767?

11 A. Yes.

12 JIM KISER: Nothing further of this witness at this  
13 time, Mr. Chairman.

14 BENNY WAMPLER: You may have covered this, but if  
15 you took the well 2500 foot location and moved it due west  
16 and kept the 2500 feet, what problem do you encounter doing  
17 that?

18 JERRY HAMILTON: Once you come off of that point  
19 area, you run into a sandstone outcropping that  
20 completely...that is similar to a coal outcropping,  
21 completely goes around the side of that mountain and the  
22 environmental concerns would have to play in then about  
23 shooting cliff down, and you would still have to be blasting  
24

--

1 a considerable amount close to that 12480 line.

2 BENNY WAMPLER: Questions---?

3 MAX LEWIS: How close?

4 JERRY HAMILTON: I would not want any blasting  
5 within 500 foot of that line.

6 CLYDE KING: How far is your proposed away from the  
7 line?

8 JERRY HAMILTON: Right now in my narrative I think  
9 I have it 150 foot west of the transmission line with no  
10 blasting. A 150 foot with no blasting.

11 BENNY WAMPLER: Do you have other wells west? Most  
12 of your wells appear to be north, south and east.

13 JERRY HAMILTON: At this point, we have no other  
14 wells south. We do have a proposed line that we are doing an  
15 investigation on at this time that are not drilled or mapped  
16 out yet. There will be at some point in the future, a line  
17 of wells west of this.

18 MAX LEWIS: Who come up with that idea, 150 foot  
19 from the line?

20 JERRY HAMILTON: Well, Mr. Lewis, what I did, when  
21 I walked the area and identified where the original stake was  
22 put and saw where the power line was, then I did additional  
23 walking to determine a safe distance, number one, away from  
24

1 the power line that I felt like with the (inaudible) tables  
2 of standard distances that we would not get an arc over from  
3 this line; and then I pinpointed that down to an area that  
4 would require no blasting close to this line, and that's how  
5 I came up with the area. 150 foot west of it is a relative  
6 flat point. There will be some excavation work but no  
7 blasting. Going east of the line, or even east or northeast  
8 of it, you would have to shoot that entire cliff off through  
9 there. And even going way west of it you would do a lot of  
10 blasting. Probably wouldn't be a fly rock issue. You could  
11 probably control that, but you would get a vibration issue or  
12 a ground...or air blast issue that could potentially slap  
13 those lines together. We have always avoided doing any  
14 significant blasting within 500 foot, mining industry and  
15 construction industry, away from power lines.

16           MAX LEWIS: I've laid a lot of pipeline, but I  
17 never did have to stay no 150 foot away from a power line.  
18 I've shot a lot of pipeline.

19           JERRY HAMILTON: We always try to stay, Mr. Lewis,  
20 quite a distance from it. Then, of course, with our...even  
21 on a set up with the mast and stuff, you know, you want to  
22 keep the bleed off, but the blasting is a concern when  
23 you...or it is to me when you start shooting.

24

--

1           BENNY WAMPLER: No correlative rights issues from  
2 either location?

3           JERRY HAMILTON: No.

4           BENNY WAMPLER: Other questions from members of the  
5 Board?

6           (No audible response.)

7           BENNY WAMPLER: Do you have anything further?

8           JIM KISER: We'd ask that the application, Mr.  
9 Chairman, be approved as submitted.

10          CLYDE KING: I move we approve.

11          BENNY WAMPLER: There's a motion. Is there a  
12 second?

13          DENNIS GARBIS: I'll second.

14          BENNY WAMPLER: Motion is second. Any further  
15 discussion?

16          (No audible response.)

17          BENNY WAMPLER: All in favor, signify by saying  
18 yes.

19          (All members signify by saying yes with the  
20 exception of Max Lewis.)

21          BENNY WAMPLER: Opposed, say no.

22          MAX LEWIS: No.

23          BENNY WAMPLER: The motion is approved. Thank you.

24

1           BENNY WAMPLER: The next item on the agenda is a  
2 petition from Equitable Production Company for a well  
3 location exception for proposed well V-502356. This is  
4 docket number VGOB-02-07/16-1046. We'd ask the parties that  
5 wish to address the Board in this matter to come forward at  
6 this time.

7           JIM KISER: Mr. Chairman, members of the Board, Jim  
8 Kiser on behalf of Equitable Production Company. Our witness  
9 in this matter will be Mr. Don Hall who was previously sworn.  
10 I'll remind him that he's still under oath.

11           (Exhibits are distributed.)

12           BENNY WAMPLER: The record will show there are no  
13 others. You may proceed.

14

15                               DON HALL

16                               DIRECT EXAMINATION

17   QUESTIONS BY MR. KISER:

18           Q.       Mr. Hall, if you'd state your name for the  
19 Board, who you're employed by and in what capacity?

20           A.       My name is Don Hall. I'm employed by  
21 Equitable Production as district landman.

22           Q.       And your qualifications as an expert witness  
23 has been previously accepted by the Board on numerous

24

--

1 occasions?

2 A. Yes.

3 Q. And do your responsibilities include the  
4 land involved here for this unit and the surrounding area?

5 A. They do.

6 Q. Are you familiar with the application that  
7 we filed seeking a location exception for well number V-  
8 502356?

9 A. Yes.

10 Q. Have all interested parties been notified as  
11 required by Section 4(B) of the Virginia Gas and Oil Board  
12 Regulations?

13 A. They have.

14 Q. Would you indicate for the Board the  
15 ownership of the oil and gas underlying the unit for well V-  
16 502356?

17 A. Penn Virginia Resources is a 100% owner of  
18 the gas.

19 Q. And does Equitable have the right to operate  
20 the reciprocal wells?

21 A. Yes.

22 Q. Are there any correlative rights issues?

23 A. No.

24

--

1                   Q.        Would you kind...we don't really have an  
2 exhibit other than a plat for this particular hearing, Mr.  
3 Chairman and Board members. Would you just kind of go  
4 through the history, the long history of this well, for the  
5 Board and explain what's going on?

6                   A.        As you see on the plat, 2350...V-2356 is  
7 located 1830 feet from V-2287. This well was previously  
8 permitted as a conventional well and then later converted...  
9 the permit was converted to a coalbed permit and the location  
10 was built; and then they decided not to drill the coalbed  
11 methane well. So, we reclaimed the location, the access road  
12 and so forth. Then recently we decided that we wanted to  
13 drill the conventional well here. This was on the Forest...  
14 Jefferson National Forest, US Forest Service, and a part of  
15 our continuing development on their property and through the  
16 environmental impact statement that we have in that area they  
17 have to approve all the locations and where these locations  
18 are put on their property. This is obviously where they want  
19 this location to go back where we had previously built it.  
20 That was where they initially approved it to begin with. So,  
21 we really are tied to where we put these locations by the  
22 Forest Service, where they want us to put them.

23                   Q.        So, they've requested that the location  
24

1 remain here to minimize surface damage and disturbance?

2 A. That's correct.

3 Q. And it is on a 4000 acre...basically a 4000

4 acre Penn Virginia tract and the surrounding wells are all

5 Penn Virginia Equitable wells?

6 A. That's correct.

7 Q. So there are no correlative rights issues?

8 A. That's correct.

9 Q. In the event this location exception were

10 not granted, would you project the estimated loss of

11 reserves?

12 A. 300 million cubic feet.

13 Q. And what's the total depth of the proposed

14 well?

15 A. 5,090 feet.

16 Q. Will this be sufficient to penetrate and

17 test the common sources of supply in the subject formations?

18 A. Yes.

19 Q. Now, you're requesting that this location

20 exception cover conventional gas reserves to include the

21 designated formations from the surface to the total depth

22 drilled?

23 A. Yes.

24



1           Q.       In your professional opinion, would the  
2 granting of this location exception be in the best interest  
3 of preventing waste, protecting correlative rights and  
4 maximizing the recovery of the gas reserves underlying V-  
5 502356?

6           A.       It would.

7           JIM KISER: Nothing further of this witness at this  
8 time, Mr. Chairman.

9           BENNY WAMPLER: Questions from members of the  
10 Board?

11           (No audible response.)

12           JIM KISER: We'd ask that the application---. I'm  
13 sorry.

14           MAX LEWIS: Why didn't you list the land owners in  
15 this?

16           JIM KISER: What did he say?

17           BENNY WAMPLER: Surface owner, I believe he said is  
18 the Forest Service.

19           A.       Yes, the Forest Service.

20           MAX LEWIS: It's not listed in here.

21           JIM KISER: It's listed on the plat and you're not  
22 required to notify the surface owner on a location exception.

23           BENNY WAMPLER: Any other questions?

24

--

1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 JIM KISER: We'd ask that the application be

4 approved as submitted, Mr. Chairman.

5 BENNY WAMPLER: Is there a motion?

6 DENNIS GARBIS: I move to approve.

7 BENNY WAMPLER: Second?

8 CLYDE KING: Second.

9 BENNY WAMPLER: Any further discussion?

10 (No audible response.)

11 BENNY WAMPLER: All in favor, signify by saying

12 yes.

13 (All members signify by saying yes with the

14 exception of Max Lewis and Ken Mitchell.)

15 BENNY WAMPLER: Four yes and two nos.

16 COURT REPORTER: Who seconded the motion?

17 BENNY WAMPLER: The second was Mr. King. Two nos

18 were Mr. Lewis and Mr. Mitchell.

19 BENNY WAMPLER: You have approval. The next item

20 on the agenda is a petition from Equitable Production Company

21 for pooling of a coalbed methane unit under the Nora Coalbed

22 Gas Field Order identified as VC-505188, docket number VGOB-

23 02-07/16-1047. We'd ask the parties that wish to address the

24

1 Board in this matter to come forward at this time.

2           JIM KISER: Jim Kiser on behalf of Equitable  
3 Production Company. Our witness in this matter will be Mr.  
4 Don Hall. We've got a revised Exhibit B.

5           (Exhibits are distributed.)

6           BENNY WAMPLER: The record will show there are no  
7 others. You may proceed.

8

9                           DON HALL

10                           DIRECT EXAMINATION

11 QUESTIONS BY MR. KISER:

12           Q. Mr. Hall, if you'd again state your name for  
13 the Board, who you're employed by and in what capacity?

14           A. Equitable Production. My name is Don Hall.  
15 I work for Equitable Production Company as district landman.

16           Q. And do your responsibilities include the  
17 land involved in this unit and the surrounding area?

18           A. They do.

19           Q. Are you familiar with Equitable's  
20 application seeking a pooling order for EPC well number VC-  
21 505188, which was dated June 14th, 2002?

22           A. Yes.

23           Q. Is Equitable seeking to force pool the  
24

--

1 drilling rights underlying the unit as depicted in Exhibit A,  
2 that being the plat to the application?

3 A. We are.

4 Q. Does Equitable own drilling rights in the  
5 unit involved here?

6 A. Yes.

7 Q. Prior to filing the application, were  
8 efforts made to contact each of the respondents listed in  
9 revised Exhibit B and attempts made to work out a voluntary  
10 lease agreement regarding the development of the unit  
11 involved?

12 A. Yes.

13 Q. Okay. What is the interest of Equitable in  
14 the gas estate within the unit?

15 A. We have 81.33% leased.

16 Q. And the interest of Equitable in the coal  
17 seam?

18 A. The same, 81.33%.

19 Q. Are you familiar with the ownership of  
20 drilling rights of parties other than Equitable underlying  
21 this unit?

22 A. Yes.

23 Q. What is the interest in the gas and coal  
24

1 estate that remains unleased?

2 A. 18.67%

3 Q. Okay. In this particular case, we do not  
4 have any unknown heirs or unknown parties that we're pooling?

5 A. That's correct.

6 Q. In your professional opinion, was due  
7 diligence exercised to locate each of the respondents that  
8 are named in Exhibit B?

9 A. It was.

10 Q. Are the addresses set out in the revised  
11 Exhibit B to the application the last known addresses for the  
12 respondents, and can you tell the Board why we revised our  
13 exhibit today?

14 A. The revised Exhibit B, if you'll look on  
15 page two of the exhibit, as I pointed out earlier, the Ken  
16 Titus Breeding address was initially listed as Urwood Drive  
17 and it's Yewood Drive. That's the only correction that we  
18 have there.

19 Q. Are you requesting this Board to force pool  
20 all the unleased interest listed in revised Exhibit B?

21 A. Yes.

22 Q. And are you familiar with the fair market  
23 value of drilling rights in the unit here and in the

24

--

1 surrounding area?

2 A. I am.

3 Q. Could you advise the Board as to what those  
4 are?

5 A. We pay five dollar bonus on a five year term  
6 and one-eighth royalty.

7 Q. In your opinion, do these terms you have  
8 testified to represent the fair market value of and the fair  
9 and reasonable compensation to be paid for drilling rights  
10 within this unit?

11 A. They do.

12 Q. Now, regarding those parties that remain  
13 unleased in the revised Exhibit B, which there are one, two,  
14 three, four---.

15 JIM KISER: Mr. Chairman, we'd ask that the  
16 testimony regarding the elections afforded the unleased  
17 parties and their different time tables and obligations in  
18 making those elections that was earlier taken in VGOB docket  
19 number 02-06/18-1035 be incorporated for purposes of this  
20 hearing at this time.

21 BENNY WAMPLER: They'll be incorporated.

22 Q. Now, Mr. Hall, in this particular case we do  
23 not have conflicting claimants and we do not have any

24

--

1 unknown/unlocatables, so we do not need the Board to  
2 establish an escrow account, is that correct?

3 A. That's correct.

4 Q. And who should be named the operator under  
5 any force pooling order?

6 A. Equitable Production Company.

7 Q. Now, what's the total depth of the well  
8 under the applicant's plan of development?

9 A. 1779 feet.

10 Q. Will this be sufficient to penetrate and  
11 test the common sources of supply in the subject formations?

12 A. Yes.

13 Q. And what are the estimated reserves for this  
14 unit?

15 A. 450 million cubic feet.

16 Q. Now, are you familiar with the well costs  
17 for the proposed well?

18 A. Yes, sir.

19 Q. Has an AFE been reviewed, signed and  
20 submitted to the Board as Exhibit C to the application?

21 A. Yes.

22 Q. Was this AFE prepared by an engineering  
23 department knowledgeable in the preparation of such AFEs and  
24

1 knowledgeable in regard to well costs in this area?

2 A. It was.

3 Q. In your opinion, does the AFE represent a  
4 reasonable estimate of the well costs under the plan of  
5 development?

6 A. It does.

7 Q. Could you state for the Board both the dry  
8 hole costs and the completed well costs for VC-505188?

9 A. The dry hole costs would be \$73,507, and the  
10 completed well costs would be \$192,670.

11 Q. Do these costs anticipate a multiple  
12 completion?

13 A. They do.

14 Q. Does your AFE include a reasonable charge  
15 for supervision?

16 A. It does.

17 Q. In your professional opinion, would the  
18 granting of this application be in the best interest of  
19 conservation, the prevention of waste, and the protection of  
20 correlative rights?

21 A. Yes.

22 JIM KISER: Nothing further of this witness at this  
23 time, Mr. Chairman.

24

--



1           BENNY WAMPLER: Any questions from members of the  
2 Board?  
3           (No audible response.)  
4           BENNY WAMPLER: You did say it was 1779 feet total  
5 depth?  
6           DON HALL: Yes.  
7           BENNY WAMPLER: Do you have anything further?  
8           JIM KISER: We'd ask that the application be  
9 approved as submitted, Mr. Chairman.  
10          BENNY WAMPLER: Do we have a motion?  
11          DENNIS GARBIS: I move to approve.  
12          CLYDE KING: Second.  
13          BENNY WAMPLER: Second. Any further discussion?  
14          (No audible response.)  
15          BENNY WAMPLER: All in favor, signify by saying  
16 yes.  
17          (All members signify by saying yes.)  
18          BENNY WAMPLER: Opposed, say no.  
19          (No audible response.)  
20          BENNY WAMPLER: You have approval. The next item  
21 on the agenda is a petition from Dart Oil & Gas Corporation  
22 for pooling of a conventional gas unit, identified as French  
23 #1. This is docket number VGOB-02-07/16-1048. We'd ask the  
24

1 parties that wish to address the Board in this matter to come  
2 forward at this time.

3           TIM SCOTT: Good morning, Mr. Chairman and members  
4 of the Board. I have two witnesses who will testify this  
5 morning. I'm croupy. I apologize. Robert Powell and Susan  
6 Linert. This is for pooling of the conventional unit, French  
7 #1 identified as VGOB docket number 02-07/16-1048.

8           Would you both raise your right hands and be sworn.  
9           (Witnesses are duly sworn.)

10

11                           ROBERT POWELL  
12 having been duly sworn, was examined and testified as  
13 follows:

14                           DIRECT EXAMINATION

15   QUESTIONS BY TIM SCOTT:

16           Q.       Would you state your name, please?

17           A.       Robert Powell.

18           Q.       And by whom are you employed?

19           A.       Dart Oil & Gas.

20           Q.       In what capacity are you employed by Dart  
21 Oil?

22           A.       Consulting land man.

23           Q.       Are you familiar with Dart's application for  
24

--

1 the establishment of a drilling unit and seeking the pooling  
2 of unleased interests from French #1 well?

3 A. Yes, I am.

4 Q. This application is dated June 13, 2002; and  
5 the property shown on Exhibit A is the property subject to  
6 this application, is that correct?

7 A. That's true.

8 Q. Are there any respondents as unleased on  
9 Exhibit B that should be dismissed from this application?

10 A. Yes, there are.

11 Q. Who would those be, please?

12 A. Number nine, the Tazewell County School  
13 Board; number 11, Dallas Epperson; and number 11A, Brian  
14 Keith Epperson.

15 TIM SCOTT: We'd ask that those parties respondent  
16 be dismissed from this application, Mr. Chairman.

17 BENNY WAMPLER: They're currently leased?

18 A. They're currently leased.

19 TIM SCOTT: Yes, sir, they are leased.

20 Q. Mr. Powell, does Dart own drilling rights in  
21 the unit involved here?

22 A. Yes, they do.

23 Q. What is that percentage of the unit that  
24

1 Dart has under lease?

2 A. 62.67%.

3 Q. Are you familiar with the drilling rights of

4 all parties other than Dart in the unit?

5 A. Yes, I am.

6 Q. Are those interests also set forth on

7 Exhibit B to the application?

8 A. Yes, they are.

9 Q. Let me ask you some questions about these

10 unleased parties. Did you attempt to enter into a voluntary

11 agreement with these unleased interests shown on Exhibit B?

12 A. Yes, sir. Yes, we have.

13 Q. Are the addresses of these respondents set

14 out on Exhibit?

15 A. Yes, they are.

16 Q. And how were these persons notified of this

17 hearing?

18 A. By certified mail return receipt.

19 Q. How else were they notified?

20 A. They were contacted in person and, you know,

21 by phone.

22 Q. Was there a publication?

23 A. There was publication in the Bristol

24

1 Herald---.

2 Q. Courier?

3 A. ---Courier.

4 Q. Very good. Thank you. Has photocopies of

5 the return receipt card and the affidavit of publication been

6 filed with the Board?

7 A. Yes, they have.

8 Q. Are you requesting the Board to pool all the

9 unleased interests as listed on Exhibit B?

10 A. Yes, we are.

11 Q. Mr. Powell, are you familiar with bonus and

12 royalty payments in this area and in surrounding areas?

13 A. Yes, I am.

14 Q. Could you advise the Board as to what those

15 terms are?

16 A. Twenty dollars per acre for five year paid

17 up lease, and one-eighth royalty.

18 Q. Did you gain your familiarity with acquiring

19 oil and gas leases in this unit here, involved in the

20 surrounding area?

21 A. Yes. Yes, I have.

22 Q. Do these...do the terms that you've just

23 testified to represent fair market value of the reasonable

24

1 compensation to be paid for an oil and gas lease within this  
2 unit?

3 A. Oh, yes.

4 Q. Are you requesting the Board to grant the  
5 respondents the three election options under Section 361.21,  
6 being participation, cash bonus of twenty dollars which you  
7 just testified to per net mineral acre, plus an eighth  
8 royalty, or be carried as a carried interest owner?

9 A. Yes. Yes, I am.

10 Q. Do you recommend that the order provide that  
11 the election by the respondents be in writing and sent to the  
12 applicant, Dart Oil & Gas Corporation, 600 Dart Road, Mason,  
13 Michigan, 48854; attention, Roger McKinley?

14 A. Yes, I do.

15 Q. And should all communications regarding the  
16 order and this application be included in that pooling order?

17 A. Yes, they should.

18 Q. Who should be named operator of this unit?

19 A. Dart Oil & Gas Corporation.

20 Q. Okay. Thank you, Mr. Powell.

21 BENNY WAMPLER: Let me ask you.

22 TIM SCOTT: Yes, sir.

23 BENNY WAMPLER: And let us have an opportunity to  
24

--

1 ask this witness any questions. On your Exhibit B, you  
2 changed the percentages you have listed on the Exhibit we  
3 have 56.87%, and I believe you testified it's currently  
4 62.67% of leased interest.

5 ROBERT POWELL: Yes.

6 BENNY WAMPLER: We just ask that you supplement the  
7 file with a revised Exhibit B.

8 ROBERT POWELL: We'll do that.

9 BENNY WAMPLER: Any questions of this witness,  
10 members of the Board?

11 (No audible response.)

12 BENNY WAMPLER: Call your next witness.

13

14

15

16

17

18 SUSAN M. LINERT

19 having been duly sworn, was examined and testified as  
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY TIM SCOTT:

23 Q. State your name, please?

24

--

1           A.       Susan M. Linert.

2           Q.       By whom are you employed?

3           A.       Dart Oil & Gas Corporation.

4           Q.       And in what capacity?

5           A.       I'm a petroleum engineer.

6           Q.       Are you familiar with the application...this

7 pooling application before the Board?

8           A.       Yes, I am.

9           Q.       In what aspects?

10          A.       I was the author of the authority for

11 expenditures.

12          Q.       Are you familiar with the total depth of the

13 proposed well?

14          A.       Yes, I am.

15          Q.       And what would that be, please?

16          A.       Approximately 2,000 feet.

17          Q.       Are you requesting of conventional gas

18 reserves only to include the designated formations, but any

19 other formations excluding coal formations which may be

20 between those formations designated from the surface to the

21 total depth drilled?

22          A.       Yes, I am.

23          Q.       And what are the estimated reserves of this

24



1 unit?

2 A. 750 million standard feet, feet of gas.

3 Q. Are you also familiar with the well cost  
4 for this proposed well?

5 A. Yes, I am.

6 Q. Has an authorization for expenditure been  
7 reviewed, signed and submitted to the Board?

8 A. Yes, it has.

9 Q. Was this AFE prepared by an engineering  
10 department knowledgeable in regard to well cost?

11 A. Yes, it was.

12 Q. Does it represent a reasonable estimate of  
13 well cost under the plan of development?

14 A. Yes, it does.

15 Q. Would you please tell the Board what both  
16 the dry hole and completed well cost for the French #1 would  
17 be?

18 A. Total dry hole cost would be \$329,395. The  
19 total well cost excluding plugging will be \$500,345; and the  
20 total completion cost will be \$170,950.

21 Q. Do these costs anticipate a multiply  
22 completion?

23 A. Yes, they do.

24

--

1           Q.       Does the AFE cover a reasonable charge for  
2 supervision?

3           A.       Yes, it does.

4           Q.       Will the approval and grant of this  
5 application be in the best interest of conservation,  
6 prevention of waste and protection of correlative rights?

7           A.       Yes, it will be.

8           TIM SCOTT: That's all my questions and our proof,  
9 Mr. Chairman.

10          BENNY WAMPLER: Questions from members of the  
11 Board?

12          CLYDE KING: I have a question, Mr. Chairman.  
13 Where...can you pinpoint the church property and the school  
14 property?

15          ROBERT POWELL: The school property is---.

16          TIM SCOTT: We'll have Mr. Powell...if that's okay  
17 with the Board.

18          ROBERT POWELL: The school property is number nine,  
19 which is...which is right here. It barely takes in any part  
20 of the school property. Then the church property is number  
21 ...I think it's number three, which is over here on the other  
22 side, right here. This right here.

23          BENNY WAMPLER: Other questions, members of the  
24

--

1 Board?

2           MASON BRENT: What did you say the estimated  
3 reserves were?

4           SUSAN LINERT: 750 million.

5           MASON BRENT: 750?

6           SUSAN LINERT: Yes.

7           KEN MITCHELL: Mr. Chairman.

8           BENNY WAMPLER: Mr. Mitchell?

9           KEN MITCHELL: My question...I know there's a  
10 variance on who you've now signed and who you haven't signed,  
11 or whatever. Roughly it's 60/40, I mean give or take.

12           ROBERT POWELL: About 65/35, yes, sir.

13           KEN MITCHELL: This is one of the larger  
14 percentages we've been asked to pool. Normally...I mean,  
15 many of ours are 8%, 10% or 12%, and I'm concerned. Are you  
16 still in active negotiations?

17           ROBERT POWELL: Yes, sir.

18           KEN MITCHELL: I believe there's seven unleashed  
19 people?

20           ROBERT POWELL: Always.

21           KEN MITCHELL: Do you feel there's a chance of  
22 signing these people? I mean, are they...do they seem---?

23           ROBERT POWELL: I don't think we'll sign anybody  
24

1 else. And the biggest tract in here, tract number two, we  
2 probably negotiated with those people since January of 2001.

3 KEN MITCHELL: Uh-huh.

4 ROBERT POWELL: So, it's been like, what, 18 months  
5 or 19 months we've tried to lease them, and gone to them on  
6 many, many, many occasions and just have gotten no results  
7 back.

8 BENNY WAMPLER: And your lease terms again, if  
9 you'll restate those, please.

10 ROBERT POWELL: Yeah. Fairly high for the area  
11 actually. \$20 for a five year paid up lease and an eighth  
12 royalty; and on the smaller tracts, we do a minimum of \$100  
13 per lease on the smaller tracts. If they don't come of \$100,  
14 we pay a minimum of \$100 to sign a lease.

15 KEN MITCHELL: Okay.

16 BENNY WAMPLER: Okay. Other questions, members of  
17 the Board?

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 TIM SCOTT: No, sir. We ask that it be approved.

21 BENNY WAMPLER: Motion?

22 CLYDE KING: Move we approve.

23 (Mr. Wampler and Ms. Riggs confer.)

24

--

1           BENNY WAMPLER: Before I move forward, let me just  
2 clarify one thing that was just raised.

3           TIM SCOTT: Yes, sir.

4           BENNY WAMPLER: Would you...for the cost of  
5 participation, would you go directly to that from your AFE?  
6 We've had testimony that they, for example---.

7           TIM SCOTT: Yes, sir.

8           BENNY WAMPLER: ---that the dry hole cost was  
9 \$329,395, I believe. Is that correct?

10          SUSAN LINERT: That is correct.

11          BENNY WAMPLER: Then would you go ahead and tell  
12 us...I believe you said that the total well cost was  
13 \$500,345. Then you used another number. Would you state  
14 what that was?

15          SUSAN LINERT: The total completion cost is  
16 actually \$149,750, plus your production equipment cost which  
17 is \$21,200.

18          BENNY WAMPLER: But the total for participation  
19 would be the \$500,345, is that correct?

20          SUSAN LINERT: That would be correct. Yes, sir.

21          BENNY WAMPLER: We have a motion for approval. Is  
22 there a second?

23          DENNIS GARBIS: Second.

24

--

1           BENNY WAMPLER: Second. Any further discussion?  
2           (No audible response.)  
3           BENNY WAMPLER: All in favor, signify by saying yes.  
4           (Majority of members say yes.)  
5           BENNY WAMPLER: Opposed, say no.  
6           MAX LEWIS: No.  
7           KEN MITCHELL: No.  
8           BENNY WAMPLER: Two nos, you have approval.  
9           BOB WILSON: Mr. Chairman, procedural point on  
10 conventional wells we pool. Under the current regulations,  
11 the operators are allowed to drill within ten feet of the  
12 actual surveyed location. We had a recent incident in which  
13 the final plat reflecting the actual movement of that well  
14 changed the percentages of ownership in some of the tracts  
15 from when the pooling was proposed to the time that the well  
16 was actually drilled. In order to establish some kind of  
17 continuity between the orders, I think that we need to  
18 address that in the order and indicate that the final  
19 percentages will vary...may vary slightly according to the  
20 final position of the well. That would only apply to units  
21 of this sort.  
22           BENNY WAMPLER: I think the best way to do it is to  
23 order the operator to provide revised---.  
24

1           SANDRA RIGGS: That should happen when they file  
2 their supplemental order. If any of that shifts, it should  
3 be new exhibits attached to the supplemental order that would  
4 adjust that.

5           BOB WILSON: My point was that the initial order, I  
6 was suggesting, could recognize the fact that this is the  
7 likelihood such as there is not a change of percentages from  
8 the order to the supplemental and no explanation why that  
9 change was made.

10           BENNY WAMPLER: Based on the exact location of the  
11 well. Thank you.

12           The next item on the agenda is a petition from  
13 Equitable Production Company for a well location exception  
14 for proposed well P-550423, docket number VGOB-02-07/16-1049.  
15 We'd ask the parties that wish to address the Board in this  
16 matter to come forward at this time.

17           JIM KISER: Mr. Chairman, members of the Board, Jim  
18 Kiser on behalf of Equitable Production Company. Our witness  
19 will again be Mr. Don Hall who is handing out some exhibits.

20

21           (Exhibits are distributed to members of the Board.)

22           BENNY WAMPLER: The record will show there are no  
23 others. You may proceed.

24

--

1

2

DON HALL

3

DIRECT EXAMINATION

4 QUESTIONS BY MR. KISER:

5 Q. Mr. Hall, if you could state your name for  
6 the Board, who you're employed by and in what capacity?

7 A. My name is Don Hall. I'm employed by  
8 Equitable Production Company as district landman.

9 Q. And do your responsibilities include the  
10 land involved here and the surrounding area for well number  
11 P-550423?

12 A. They do.

13 Q. Are you familiar with the application that  
14 we filed seeking a location exception for this well?

15 A. Yes.

16 Q. Have all interested parties been notified as  
17 required by Section 4(B) of the Virginia Gas and Oil Board  
18 Regulations?

19 A. They have.

20 Q. At this time would you indicate for the  
21 Board the ownership of the oil and gas underlying the unit  
22 for well P-550423?

23 A. Pine Mountain Oil and Gas. We own 100%.

24

--



1                   Q.       And does Equitable have the right to operate  
2 the reciprocal wells as pictured on your exhibit?

3                   A.       Yes, we do.

4                   Q.       Are there any correlative rights issues?

5                   A.       No, there isn't.

6                   Q.       In other words, Pine Mountain owns oil and  
7 gas in all the surrounding units?

8                   A.       Yes, sir.

9                   Q.       Could you explain for the Board in  
10 conjunction with the exhibits that you handed out why we're  
11 seeking this location exception?

12                  A.       As you can see from the subject well is  
13 highlighted in blue and all the reciprocal wells are  
14 highlighted in yellow, and there's nowhere to put the  
15 location in this area and have a legal location that will be  
16 greater than 25...2500 feet or greater from all these  
17 locations. In other words, not a legal...not a spot to put a  
18 legal location.

19                  Q.       And you've talked with Mr. Brillhart with  
20 Pine Mountain and he's okay with this location?

21                  A.       That's correct.

22                  Q.       And what would be the total depth of the  
23 proposed well under the plan of development?

24

1           A.       4610 feet.

2           Q.       And this will be sufficient to penetrate and  
3 test the common sources of supply in the subject formations?

4           A.       Yes.

5           Q.       Are you requesting that any location  
6 exception order cover conventional gas reserves to include  
7 the designated formations from the surface to the total depth  
8 drilled?

9           A.       That is correct.

10          Q.       In your opinion, would the granting of this  
11 location exception be in the best interest of preventing  
12 waste, protecting correlative rights and maximizing the  
13 recovery of the gas reserves underlying P-550423?

14          A.       Yes.

15          Q.       In the event it was not granted, what would  
16 you project the estimated loss of reserves for this well?

17          A.       500 million cubic feet.

18          Q.       Thank you, Mr. Hall.

19          JIM KISER: Nothing further of this witness at this  
20 time, Mr. Chairman.

21          BENNY WAMPLER: Questions from members of the  
22 Board? How close are you to Lick Branch with that well  
23 location?

24

1           A.       I'm not sure. We're probably 100 feet.  
2 That's a big circle on the map. The circle itself is  
3 probably 200 foot wide. We're probably a 100 feet from this  
4 branch. I don't have an exact distance.  
5           MAX LEWIS: Your road going into this, will it go  
6 up Lick Branch?  
7           DON HALL: Pardon?  
8           MAX LEWIS: The road to this well?  
9           DON HALL: The road will go roughly by P-168 and  
10 across Caney Creek and up the left hand side of Lick Branch,  
11 which that's depicted in the permit application which I don't  
12 have a copy of.  
13           JIM KISER: Which has been applied for?  
14           DON HALL: Yes.  
15           JIM KISER: Did anyone file any objections to the  
16 permit to your knowledge?  
17           DON HALL: No.  
18           BENNY WAMPLER: Pixis Resources is the surface  
19 owner?  
20           DON HALL: Yes. That's Pine Mountain, all the same  
21 group.  
22           BENNY WAMPLER: Other questions, members of the  
23 Board?  
24  
~

1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further, Mr.

3 Kiser?

4 JIM KISER: We'd ask that the application be

5 approved as submitted, Mr. Chairman.

6 MAX LEWIS: I make a motion we approve the

7 application.

8 BENNY WAMPLER: Motion. Is there a second?

9 DENNIS GARBIS: Second.

10 BENNY WAMPLER: Any further discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying

13 yes.

14 (All members signify by saying yes with the

15 exception of Ken Mitchell.)

16 BENNY WAMPLER: Opposed, say no.

17 KEN MITCHELL: No.

18 BENNY WAMPLER: Motion carries. Thank you. The

19 next item on the agenda is a petition from Pocahontas Gas

20 Partnership for pooling of a coalbed methane unit under the

21 Oakwood Coalbed Methane Gas Field 1 Order identified as EE-

22 30. This is docket number VGOB-02-08/20-1053. We'd ask the

23 parties that wish to address the Board to come forward at

24

1 this time.

2 JIM KISER: Mr. Chairman, are you going to consider  
3 item 16?

4 BENNY WAMPLER: I'm sorry. Did I skip one?

5 DENNIS GARBIS: You certainly did.

6 MARK SWARTZ: It's too late, man.

7 BENNY WAMPLER: I'm very sorry. Sorry about that.

8 JIM KISER: That's all right.

9 MARK SWARTZ: Do you want me to testify for you?

10 JIM KISER: No.

11 BENNY WAMPLER: That was Max's fault.

12 MARK SWARTZ: We were ready.

13 BENNY WAMPLER: I'm sorry about that.

14 JIM KISER: That's all right. It's sort of just a  
15 housekeeping thing.

16 BENNY WAMPLER: The Gas and Oil Board on its own  
17 motion is re-convening docket number 01-06/19-0897 to  
18 consider dismissal of previously issued Board order for  
19 pooling of Columbia Natural Resources' Unit CNR 24340 located  
20 in the Rock Lick District, Buchanan County. We'd ask the  
21 parties that wish to address to Board in this matter to come  
22 forward at this time.

23 JIM KISER: Mr. Chairman, Jim Kiser on behalf of  
24

1 CNR. In this particular case, we pooled this well, I guess,  
2 in June of last year. It was a situation where we had a  
3 small, very small interest in the unit that was included in  
4 the unit. It was actually under a voluntary lease, but it  
5 was an old lease that didn't contain any pooling policy. So  
6 we pooled the lessor under the Statute and since that time  
7 we've obtained a modification to the lease that allows for  
8 pooling, and as such I've filed an amended affidavit of  
9 election on May 31st, 2002 as Ms. Riggs requested.  
10 Subsequent to that, we met...talked to her and she put it on  
11 this month's docket to request it be, since we now have a  
12 100% voluntarily pooled unit, we asked her to dismiss the  
13 prior Board order.

14 BENNY WAMPLER: You need to add anything?

15 SANDRA RIGGS: I think I discussed this with Bob  
16 and we decided that even though the supplemental order shows  
17 that it's now a voluntary unit and we have that of record,  
18 that because the Board pooled it, it needed to come back  
19 before the Board to consider whether to dismiss its pooling  
20 order.

21 JIM KISER: That's my understanding.

22 BENNY WAMPLER: No funds in escrow or anything like  
23 that?

24

--

1           JIM KISER: (Indicates in the negative.)  
2           BENNY WAMPLER: Questions from members of the  
3 Board?  
4           MASON BRENT: Mr. Chairman, just to be safe rather  
5 than sorry, I'm going to recuse myself from any further  
6 discussions or decisions.  
7           BENNY WAMPLER: Okay. So noted. Is there a  
8 motion?  
9           KEN MITCHELL: Motion for approval.  
10          BENNY WAMPLER: Approval to dismiss the order.  
11          MAX LEWIS: Second.  
12          BENNY WAMPLER: Motion is second. Any further  
13 discussion?  
14          (No audible response.)  
15          BENNY WAMPLER: All in favor, signify by saying  
16 yes.  
17          (All members say yes.)  
18          BENNY WAMPLER: It's approved. The order will be  
19 dismissed.  
20          JIM KISER: Thank you.  
21          BENNY WAMPLER: Now, I'll get it right this time.  
22 We continued 17 and 18, and we've already handled 19, so we  
23 should be at 20.

24

--

1           We'll consider a petition from Pocahontas Gas  
2 Partnership for pooling of a coalbed methane unit under the  
3 Oakwood Coalbed Methane Gas Field 1 Order identified as EE-  
4 30. This is docket number VGOB-02-08/20-1053. We'd ask the  
5 parties that wish to address the Board in this matter to come  
6 forward at this time.

7           MARK SWARTZ: Mark Swartz and Les Arrington.

8           (Exhibits are distributed to the Board.)

9           MARK SWARTZ: As I noted earlier, if there's no  
10 objection, I'd like to combine for hearing 20, 21 and 25.

11          MARK TUGGLE: Did you say 21?

12          BENNY WAMPLER: 20, 21 and 25 is what he's  
13 suggesting we do. Any objections to doing that, members of  
14 the Board?

15          (No audible response.)

16          BENNY WAMPLER: I'll go ahead and call the other  
17 two items. 21 on the Board's agenda is a petition from  
18 Pocahontas Gas Partnership for pooling of coalbed methane  
19 unit identified as EE-33, docket number VGOB-02-08/20-1054.  
20 Did you say 25?

21          MARK SWARTZ: Yes, 25.

22          BENNY WAMPLER: And petition from Pocahontas Gas  
23 Partnership for pooling of coalbed methane unit under the

24

--



1 Oakwood Coalbed Methane Gas Field 1 Order identified as FF-  
2 36, docket number VGOB-02-08/20/-1058. We'd ask the parties  
3 that wish to address the Board in these matters to come  
4 forward at this time, please?

5 MARK SWARTZ: Also, Mark Swartz and Les Arrington  
6 on the additional two units.

7 MARK TUGGLE: Mark Tuggle, the son of Dolly Belcher  
8 on docket number 21.

9 (Mark Tuggle was duly sworn.)

10 BENNY WAMPLER: Mr. Arrington, you've been  
11 previously sworn. Mr. Swartz, you may proceed.

12

13 LESLIE K. ARRINGTON

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Mr. Arrington, who is the applicant in these  
17 three units?

18 A. Pocahontas Gas Partnership.

19 Q. And in each of the three units, is  
20 Pocahontas requesting that in the event the Board were to  
21 pool these units, that it appoint Pocahontas Gas Partnership  
22 as the designated operator?

23 A. That is correct.

24

--

1           Q.       Pocahontas Gas Partnership is a Virginia  
2 general partnership?

3           A.       Yes, it is.

4           Q.       Does it have two partners who are  
5 Consolidation Coal Company and Consol Energy, Inc.?

6           A.       Yes.

7           Q.       Is Pocahontas Gas Partnership authorized to  
8 do business in the Commonwealth of Virginia?

9           A.       Yes, it is.

10          Q.       Has it registered with the Department of  
11 Mines Minerals and Energy, and does it have a blanket bond on  
12 file as required by law?

13          A.       Yes, it does.

14          Q.       Have you listed the names of the respondents  
15 that you're seeking to pool in these three units in both the  
16 notice and Exhibit B-3?

17          A.       Yes, we have.

18          Q.       And with regard to the last of the three  
19 units, FF-36, there's actually a revised Exhibit B-3,  
20 correct?

21          A.       There is.

22          Q.       But with regard to the first two, the  
23 documents have not changed since we filed?

24

1           A.       Yes, that's correct.

2           Q.       Okay. Do you want to add anybody as a  
3 respondent, or do you want to dismiss anybody as a  
4 respondent except as is indicated in Exhibit B-2 with regard  
5 to FF-36, which we'll get to later?

6           A.       That's correct.

7           Q.       So there will be no other changes?

8           A.       Correct.

9           Q.       What did you do to notify the respondents of  
10 this hearing?

11          A.       Okay. For unit EE-30, we mailed July 19th  
12 of 2002 by certified mail, return receipt requested. We  
13 published in the Daily Telegraph on July 27th, 2002. On unit  
14 EE-33, we mailed on July 19th of 2002 by certified mail,  
15 return receipt requested; and we published in the Bluefield  
16 Daily Telegraph on July the 29th, 2002. On unit FF-36, we  
17 mailed by certified mail, return receipt requested on July  
18 19th of 2002; and we published in the Daily Telegraph on July  
19 31st of 2002.

20          Q.       And did you file proof of publication and  
21 certifications with regard to mailing on all three of these  
22 units with the Board today?

23          A.       Yes, we have.

24

1 Q. When you published, what did you published?  
2 A. We published the notice and associated  
3 location map.  
4 Q. Now, each of these units is an Oakwood 1  
5 unit, is that correct?  
6 A. Yes.  
7 Q. So you would be proposing to drill one frac  
8 well in each unit?  
9 A. That's correct.  
10 Q. In all cases, is that frac well within the  
11 drilling window?  
12 A. Yes, it is.  
13 Q. Okay. Now, two of the...the first two units  
14 are actually 80 acre Oakwood units, is that right?  
15 A. That's correct.  
16 Q. But the third unit, FF-36, is one of the  
17 boundary makeup units, correct?  
18 A. That's correct.  
19 Q. What's the acreage there?  
20 A. Containing 89.38 acres.  
21 Q. So the math with regard to acreages and  
22 percentage of interest in these units for the first two  
23 units, being EE-30 and EE-33, you've used 80 acres?  
24

1                   A.       We did.

2                   Q.       And for the math pertaining to acreages and  
3 percentage interest for FF-36, you've used 89.38?

4                   A.       Yes.

5                   Q.       Now these wells would seek to produce from  
6 what pool?

7                   A.       All coal seams below the Tiller down through  
8 the top of the red and green shales.

9                   Q.       Let's take the...let's start with EE-30 and  
10 let's look at the acreage that you've either acquired or  
11 leased and the interest that you're seeking to pool today?

12                  A.       Okay. Unit EE-30, we have 100% of the coal  
13 leased beneath the unit, a 100% of the coal CBM leased. We  
14 have 95.325% of the oil and gas owner's coalbed methane  
15 interest leased. We're seeking to pool 4.675% of the oil and  
16 gas owners coalbed methane interest.

17                  Q.       Now, in this particular unit, is the well  
18 drilled?

19                  A.       EE-30, yes, it is.

20                  Q.       Would you tell the Board the information  
21 with regard to permitting the well, drilling and the well  
22 cost?

23                  A.       Yes.

24

1           Q.       The permit number for EE-30 is 5230. It was  
2 drilled to a total depth of 1782 feet on April 1st of 2002,  
3 at a cost of \$211,925.25.

4           BENNY WAMPLER: What is that total depth, please?

5           A.       I'm sorry?

6           BENNY WAMPLER: Repeat the total depth.

7           A.       I have on my completed 1782 feet; however,  
8 on the Exhibit C, which I'll need to correct. I just noticed  
9 that. We had an estimated depth when we done this of 1945  
10 feet.

11          Q.       With regard to...staying with unit EE-30, is  
12 there a requirement of escrow?

13          A.       Yes, there is, for tract 1A, 1C, 1B and 1E.

14          Q.       And is that in part because of conflicts?

15          A.       Yes, it is.

16          Q.       Are there any owners that are also either  
17 unknown or unlocateable in those three tracts?

18          A.       No.

19          Q.       Okay. So the only reason for escrow with  
20 regard to unit EE-30 would be conflicts?

21          A.       Correct.

22          Q.       Okay. Are there split agreements?

23          A.       Yes, there is.

24

--

1           Q.       And have you set forth the folks that have  
2 entered into split agreements in Exhibit EE?

3           A.       Yes, we have.

4           Q.       And are you requesting that any Board order  
5 entered here allow you to pay those people who are identified  
6 in Exhibit EE directly in accordance with the terms of their  
7 split agreement regardless of the conflict?

8           A.       We have.

9           Q.       Let's turn...well, let's stay with this for  
10 one minute. If you look at Exhibit B-3, Les, okay, you'll  
11 see that there is a...in the first column of your report, the  
12 people's names that you're pooling, right?

13          A.       Yes.

14          Q.       Then you've got the net acres in unit column  
15 and an interest in unit column, correct?

16          A.       Yes, correct.

17          Q.       The net acres, is that the acreage of...you  
18 know, if they've got a 200 acre tract, for example, let's  
19 look at Lacy and Beulah Horton. Even if they may have had a  
20 200 acre tract, what you're showing here is only 1.01 acres  
21 of their tract. Whatever the total acreage size of that  
22 tract is, is within this unit?

23          A.       That's correct.

24

--

1                   Q.       So, then you take the 1.01 and you divide it  
2 by the number of acres in the unit, which with regard to EE-  
3 30 is actually 80?

4                   A.       Correct.

5                   Q.       And when you do that math, you come up with  
6 1.2578%, correct?

7                   A.       That's correct.

8                   Q.       Okay. So, Lacy and Beulah Horton would be  
9 entitled to 1.2578% of the royalty?

10                  A.       That is correct.

11                  Q.       So, to figure out what piece of a dollar  
12 they would get, you would take 1.2578% times the 12 1/2%  
13 which is a one-eighth royalty, times a dollar?

14                  A.       Correct.

15                  Q.       Now, if they wanted to...if Lacy and Beulah  
16 Horton wanted to figure out what the amount of the check they  
17 would have to write to participate in this unit and be a  
18 partner, they would have to write a check for 1.2578% of  
19 \$211,925.25, or...because you've indicated you're going to be  
20 filing a revised Exhibit C, a lesser amount since the well as  
21 it turned out was actually less?

22                  A.       That's correct.

23                  Q.       But that's how they would figure that out?

24

--



1           A.       That's correct.

2           Q.       Then there's a carried option, which is  
3 where a person doesn't put down any money, but after a  
4 certain amount of the cost has been returned, a multiple of  
5 two or three hundred percent, then they back into the unit,  
6 you understand that?

7           A.       Yes, that's correct.

8           Q.       And this same percentage and the interest in  
9 the unit, the right hand column, would apply to that  
10 situation as well?

11          A.       It would.

12          Q.       And would that be true, that analysis of how  
13 people could figure out their royalty interest or their  
14 participation interest, would that be the same for FF-36 and  
15 for EE-33?

16          A.       Yes, it would.

17          Q.       Let's turn to EE-33 now, okay, and let's  
18 start with Exhibit A, page two, and figure out where we are  
19 in terms of leasing and pooling.

20          A.       Yes. We have 94.8625% of the coal leased  
21 beneath this unit. We have 100% of the coal owners coalbed  
22 methane interest leased.

23          Q.       Which unit are you looking at?

24

1           A.       EE-33.

2           (Mark Swartz and Les Arrington confer.)

3           Q.       Yes. We have 94.8625% of the coal leased

4 within that unit...beneath that unit. We have 100% of the

5 coal owners coalbed methane interest leased.

6           Q.       Okay.

7           A.       We have 76.8125% of the oil and gas owners

8 coalbed methane interest leased, and we are seeking to pool

9 23.1875% of the oil and gas owners coalbed methane interest.

10          Q.       Now staying with unit EE-33, would you tell

11 the Board about the well, if it's been drilled, the permit

12 number, depth and so forth, and its cost?

13          A.       Okay. EE-33, the permit number, I believe,

14 is 5450, issued July 23rd of 2002. It has not been drilled.

15 It's estimated depth is 2,600, to a cost of \$234,024.04.

16          Q.       Now with regard to this unit, EE-33, will

17 escrow be required?

18          A.       Yes, it will for tracts 2A, B, C, D and E;

19 tract 3D and 5.

20          Q.       And with regard to those tracts that are

21 listed on Exhibit E as requiring escrow, the reason for

22 escrow is conflicts?

23          A.       Yes, it is.

24

1           Q.       Apparently everybody is known or their  
2 address is identified?

3           A.       That's correct.

4           Q.       Now, do we have a situation where we've got  
5 some split agreements here as well?

6           A.       Yes, it's listed on Exhibit EE.

7           Q.       So, is it your request to the Board that  
8 their order reflect the fact that the operator be authorized  
9 to pay Coal Mountain Mining Company and New Garden Coal  
10 Corporation their royalty directly consistent with their  
11 split agreement and not be required to deposit that with the  
12 escrow?

13          A.       That's correct, we are.

14          Q.       Turning to the last of these three units  
15 here---?

16          BENNY WAMPLER: Before you do that, let me just go  
17 ahead and say if you want to raise any issues?

18          MARK TUGGLE: Tract number 2E on the...tract number  
19 2E belongs to Dolly S. Belcher, not Edgar Wilson. It's only  
20 .08 of an acre but it doesn't belong...this land was divided,  
21 I guess, by Edgar Wilson's great grandfather, my great  
22 grandfather, and the lines were in place. There shouldn't be  
23 any overlaps as far as the deeds go because the original  
24

1 deeds call running with the ridge, which would be the  
2 straight line. So, 2E is actually part of Dolly S. Belcher's  
3 estate.

4 BENNY WAMPLER: Had you made them aware of this  
5 before?

6 MARK TUGGLE: Well, we had objected to the permit,  
7 which the permit hearing, we never got a notice of. The  
8 permit was issued on this, and as a matter of fact, I've  
9 raised that question before. Mr. Wilson said that we would  
10 get a notice of a permit hearing, whether the letter was  
11 received or not, which we protested EE-33, EE-34 and we've  
12 already went through one about a month ago but we weren't  
13 even allowed...well, we didn't know. It might have been  
14 published or might have been sent, but we didn't receive a  
15 copy or I would have been there, guarantee it, on this tract  
16 2E, which .08 of an acre is not going to make a difference  
17 either way. I realize that. But that's one thing I wanted  
18 to point out on that.

19 BENNY WAMPLER: Now, who did you say...let's make  
20 sure we get this right. You're saying where they're showing  
21 Edgar S. Wilson, it's actually someone else?

22 MARK TUGGLE: Tract 2E.

23 BENNY WAMPLER: Right.

24

--

1           MARK TUGGLE: Yes.

2           BENNY WAMPLER: Who are you---?

3           MARK TUGGLE: Dolly Belcher.

4           BENNY WAMPLER: Dolly Belcher. Let me just ask

5 Les, have you looked into that?

6           LESLIE K. ARRINGTON: That's the first I've heard

7 of it.

8           MARK TUGGLE: There was an overlap on the next one,

9 which we're not contesting that or anything, and .08 of an

10 acre is not going to affect the Board in any way, but I just

11 wanted to straighten that one---.

12           MARK SWARTZ: Well, I guess my question is, are you

13 telling us...just so we understand. Are you saying that

14 Mr....get his name here, Wilson, does not own a tract?

15           MARK TUGGLE: Yes, he owns five. There's also,

16 which would be that corner.

17           MARK SWARTZ: So, what you're saying is that you

18 have an argument with regard to the dividing line between, I

19 guess it would be 5 and 2B, is that what you're saying?

20           MARK TUGGLE: That's correct. Just on that upper

21 tip. The other---.

22           MARK SWARTZ: I understand.

23           MARK TUGGLE: The other part in there, there's

24

1 no---.

2           MARK SWARTZ: Basically, you're raising a boundary  
3 issue.

4           MARK TUGGLE: Yes.

5           MARK SWARTZ: And what is the...what is the mapping  
6 or the deed that causes you to feel that there is an---?

7           MARK TUGGLE: Almarine W. Horton.

8           MARK SWARTZ: I'm sorry?

9           MARK TUGGLE: Almarine Horton.

10          MARK SWARTZ: To---?

11          MARK TUGGLE: Christopher Horton.

12          LES ARRINGTON: Do you have a deed book or  
13 reference?

14          MARK TUGGLE: I can get all that for you.

15          MARK SWARTZ: All right. We'll look at that.

16          MARK TUGGLE: That's not a issue. I'm not arguing  
17 that.

18          MARK SWARTZ: Well, we need to straighten it out.

19          BENNY WAMPLER: What was your other point?

20          MARK TUGGLE: My other point on this one was, you  
21 know, we made an offer to Consol, to Jim Hamlin, who is, I  
22 guess the field representative, or whatever, that we would  
23 lease the coalbed methane for \$20 an acre, which he come  
24  
~

1 back, you know, that that was not acceptable. So, we were...  
2 basically, our argument is, you know, we made an offer of \$20  
3 an acre for coalbed methane and we're just asking that an  
4 easy out not be given to them if a reasonable offer is made.  
5 That's basically our whole argument there. I have no other  
6 points or questions to raise.

7 BENNY WAMPLER: So it was basically on the lease  
8 terms or the lease amount of \$20 an acre?

9 MARK TUGGLE: Yes.

10 BENNY WAMPLER: You may proceed with the next one.

11 Q. Mr. Arrington, moving to FF-36, okay, let's  
12 start with Exhibit A, page two. All right?

13 A. Yes.

14 Q. Where are we on leasing in FF-36?

15 A. Going to the revised Exhibit A, page two  
16 that we submitted today, we have 78.32...3285% of the coal  
17 leased beneath this unit. We have 96.4954% of the coal  
18 owners coalbed methane interest leased. We have 85.4974% of  
19 the oil and gas owners coalbed methane interest leased.  
20 We're seeking to pool 3.5046% of the coal owners coalbed  
21 methane interest, and 14.5026% of the oil and gas owners  
22 coalbed methane interest.

23 Q. Okay. Did A, page two with regard to FF-36

24

--

1 change because you leased some folks between the original  
2 filing and today?

3 A. That's correct.

4 Q. So if you just look forward in the revised  
5 Exhibits one page, there's an Exhibit B-2, is that correct?

6 A. That's correct, dismissing that.

7 Q. Okay. And that Exhibit B-2 seeks to dismiss  
8 William Glenn Wilson from two different...well, from one  
9 tract. But that changes the percentages and lowers them  
10 slightly.

11 A. That does, yes.

12 Q. And are you asking that the Board order show  
13 him as leased and dismiss him as a respondent?

14 A. Should be dismissed.

15 BENNY WAMPLER: You're also showing William R.  
16 McCall on that B2.

17 A. On B2. That's how the tracts are just  
18 labeled as William McCall and others.

19 MARK SWARTZ: It's actually just the R.

20 Q. It looks like in all three of these units  
21 that we're talking about, you have been successful in  
22 leasing, you know, in general 90% or better of the  
23 outstanding interest, is that correct?

24

--



1           A.       Well---.

2           Q.       You've got one where it's 85%, but other  
3 than that, all the rest are over 90, right?

4           A.       Yes, they are.

5           Q.       What are the lease terms that you have been  
6 offering to the folks that you succeeded in leasing in these  
7 three units?

8           A.       Our standard coalbed methane lease is a  
9 dollar per acre per year, with a five year paid up term, and  
10 a one-eighth production royalty.

11          Q.       And would you recommend those terms to the  
12 Board with regard to any folks that might be deemed to have  
13 been leased?

14          A.       Yes, we would.

15          Q.       Is it your opinion that the plan for  
16 development of these three units, which is the drilling of  
17 one frac well in the drilling window of each unit is a  
18 reasonable plan to develop the coalbed methane under these  
19 three units?

20          A.       Yes, it is.

21          Q.       And is it your further opinion that in the  
22 event the Board would agree to pool these three units, that  
23 the correlative rights and conflicting claims of all

24

--

1 claimants would be protected?

2 A. Yes, it would.

3 MARK SWARTZ: That's all I have.

4 BENNY WAMPLER: Questions from members of the  
5 Board.

6 (No audible response.)

7 BENNY WAMPLER: Mr. Tuggle, I'd like to go back and  
8 ask you a question. When you came up with the \$20 an acre  
9 lease term, did you base that on...did you have any other...  
10 did you do any research to come up with that?

11 MARK TUGGLE: Yes. I work for a coal company in  
12 Grundy and we actually lease coalbed methane to other gas  
13 companies in the region and that is what standard they  
14 actually use. So that was what I was basing that dollar  
15 amount on is \$20 an acre. We cited it on four wells that is  
16 going to be affecting our property and so far, you know, it's  
17 all been a dollar per acre, or they also offered a five  
18 dollar per acre on the last well, on 35, I believe.

19 LESLIE K. ARRINGTON: That was for CBM oil and gas  
20 lease.

21 MARK TUGGLE: That was five dollars.

22 BENNY WAMPLER: Questions from members of the  
23 Board?

24

--

1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 MARK SWARTZ: No, I don't.

4 BENNY WAMPLER: Is there a motion?

5 CLYDE KING: Move we approve.

6 KEN MITCHELL: Second.

7 BENNY WAMPLER: Motion and second to approve. Any

8 further discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying

11 yes.

12 (All members say yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. Thank you.

16 We'll break for lunch and come back at 1:00 o'clock.

17 (Off record.)

18 BENNY WAMPLER: The next item on the agenda...

19 we've been asked to combine 22, 23 and 24 on the docket.

20 I'll go ahead and read those now. The Board will consider a

21 petition from Pocahontas Gas Partnership for pooling of a

22 coalbed methane unit under the Oakwood Coalbed Methane Gas

23 Field 1 Order identified as EE-34, EE-35 and FF-35. These

24

1 are dockets number VGOB-02-08/20-1055, VGOB-02-08/20-0...I'm  
2 sorry, 1056, VGOB-02-08/20-1057. We'd ask the parties that  
3 wish to address the Board to come forward at this time.

4 MARK SWARTZ: Mark Swartz and---.

5 MARK TUGGLE: There's not enough room.

6 BENNY WAMPLER: We'll make room.

7 MARK SWARTZ: Mark Swartz and Les Arrington for the  
8 applicant.

9 SAMUEL CAMPBELL: It might be easier to put a  
10 microphone right here, if possible.

11 BENNY WAMPLER: Do you have that capability?

12 COURT REPORTER: Yes.

13 (Court reporter repositions the microphone.)

14 BENNY WAMPLER: Will you identify yourselves,  
15 starting with you, Mark.

16 MARK SWARTZ: Mark Swartz.

17 LES ARRINGTON: Les Arrington.

18 SAMUEL CAMPBELL: Samuel Campbell. I'm an  
19 attorney.

20 MARK TUGGLE: Mark Tuggle. I'm the son of Dolly  
21 Belcher.

22 PAUL RICHARDSON: I'm Paul Richardson. I'm  
23 representing Leonard Richardson and Shelby Richardson.  
24

1 (Exhibits are distributed to the Board.)

2 BENNY WAMPLER: It might help the Board a little  
3 bit if you can tell...in all three units, that all of you are  
4 interested in.

5 MARK TUGGLE: My unit is concerning EE-34.

6 BENNY WAMPLER: Okay.

7 SAMUEL CAMPBELL: Mr. Wampler, my unit is #23 on  
8 the docket, which is EE-35.

9 BENNY WAMPLER: Okay.

10 PAUL RICHARDSON: I got EE-34, EE-35 and FF-35.

11 BENNY WAMPLER: All right. I just want to make  
12 sure as we go through to give you a chance to ask questions  
13 as well, as they discuss that particular unit. You may  
14 proceed.

15

16 LESLIE K. ARRINGTON

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. SWARTZ:

19 Q. Les, you need to state your name for us,  
20 please.

21 A. Leslie K. Arrington.

22 Q. Who do you work for?

23 A. Consol Energy and CNX Gas Company, LLC.

24

--

1                   Q.       I want to remind you, you're still under  
2 oath?

3                   A.       Yes.

4                   Q.       With regard to the three applications that  
5 we've combined here, who is the applicant?

6                   A.       Pocahontas Gas Partnership.

7                   Q.       And is Pocahontas Gas Partnership asking  
8 that if these applications are approved, that the partnership  
9 be the Board's designated operator?

10                  Q.       Two of these...well, all of these units are  
11 Oakwood I frac units, is that correct?

12                  A.       That's correct, they are.

13                  Q.       And the EE-34 and EE-35 are 80 acre units,  
14 is that correct?

15                  A.       Yes.

16                  Q.       And FF-35 is an 89.58 make up unit?

17                  A.       That's correct, it is.

18                  Q.       We have revised exhibits with regard to each  
19 of these applications and we'll discuss those as we get to  
20 them, right?

21                  A.       Yes.

22                  Q.       Okay. How many wells are proposed to be  
23 drilled in each of these units?

24

1           A.       One.

2           Q.       And can you tell the Board whether or not  
3 that well is located inside the drilling window?

4           A.       They are.

5           Q.       What did you do to notify the respondents of  
6 the hearing today?

7           A.       We published...for EE-35, we published in  
8 the Daily Telegraph on July 30th of 2002. We mailed by  
9 certified mail return receipt requested on July 19th of 2002.  
10 On unit FF-35, we published in the Daily Telegraph on July  
11 30th of 2002, and mailed July 19th of 2002. And unit EE-34,  
12 we mailed July 19th of 2002, and published in the Daily  
13 Telegraph on July 29th of 2002.

14          Q.       When you published, what did you publish?

15          A.       We published the notice of hearing and  
16 location map.

17          Q.       Okay. Did you file with the Board today  
18 copies of the certificates of publication with regard to the  
19 three units and copies of your certificates with regard to  
20 mailing?

21          A.       Yes, we did.

22          BENNY WAMPLER: Let me...while you're at this  
23 point, did you provide them copies of the handout, or would  
24

--

1 you please, if you didn't.

2 MARK SWARTZ: Anita will get one.

3 BENNY WAMPLER: Okay.

4 Q. Pocahontas Gas Partnership is a Virginia  
5 general partnership, is that correct?

6 A. Yes, it is.

7 Q. And it has two partners who are  
8 Consolidation Coal Company and Consol Energy, Inc.?

9 A. Yes.

10 Q. And is Pocahontas Gas Partnership authorized  
11 to do business in the Commonwealth?

12 A. Yes, it is.

13 Q. Has it registered with the Department of  
14 Mines Minerals and Energy, and does it have a blanket bond on  
15 file?

16 A. Yes, it does.

17 Q. With regard to the respondents, when these  
18 were filed...these applications were filed, you listed the  
19 respondents in the notices of hearing and also again in  
20 Exhibit B-3, is that correct?

21 A. We did.

22 Q. Now with regard to each of these  
23 applications there is a revised Exhibit B-3, correct?

24

--



1           A.       It is.

2           Q.       And are the revised Exhibits B-3 a list of  
3 the folks that you're seeking to pool?

4           A.       Yes, it is.

5           Q.       Then there's also with regard to each of  
6 these units an Exhibit B-2, correct?

7           A.       That's correct.

8           Q.       And that would show if there were any  
9 additions to the respondents list, correct?

10          A.       That's correct.

11          Q.       And it would show up there where any leased  
12 interest where people could be dismissed, is that correct?

13          A.       That's correct, it does.

14          Q.       All right, let's take these one at a time.  
15 Let's look at EE-34, and if you look at revised Exhibit  
16 B-2---?

17          A.       Yes.

18          Q.       It shows that we could...the Board, in the  
19 event it enters an order with regard to EE-34, it should  
20 dismiss Carol Sue Hale, correct?

21          A.       That's correct.

22          Q.       Why?

23          A.       That...her interest would have been leased.

24

1                   Q.       And you have added two people to unit EE-34,  
2 and I believe it's true for each of these units, if I'm not  
3 mistaken, is that correct?

4                   A.       We did.

5                   Q.       And those were folks that you believe are  
6 Lonnie Richardson and Barbara Hughesman are folks that you  
7 believe were heirs of Lottie Richardson, correct?

8                   A.       We did.

9                   Q.       We have discussed this matter with Mr.  
10 Richardson, who is here today, right?

11                  A.       Yes, we have.

12                  Q.       And his view is that Lonnie and Barbara do  
13 not have an interest, correct?

14                  A.       That's correct.

15                  Q.       And his explanation is that there was a Will  
16 when, I believe, their father died, and that that Will left  
17 everything to their mother. Our information, on the other  
18 hand, shows that it may have passed by intestate succession,  
19 is that right?

20                  A.       That's correct.

21                  Q.       And the way we have left it with Mr.  
22 Richardson today, and I'm sure he may have some additional  
23 comments, but I thought I'd share with you where I think we  
24

1 are. We have mailed, or in the process of mailing to Lonnie  
2 and Barbara and noticing them of next month's hearing because  
3 we just recently discovered that they may have taken as heirs  
4 of their dad so that they will have a copy to come next  
5 month, if they choose, and state their position. In the  
6 meantime, Mr. Richardson has indicated that he's going to try  
7 and locate the Will, which would presumably resolve this  
8 issue. The papers that they brought with them today which  
9 were drafted by an attorney demonstrate that attorneys make  
10 lots of mistakes and it listed the mom as the sole heir and  
11 said that the dad died intestate. I think, you know, there's  
12 probably a mistake there, but we're going to try and  
13 straighten that out, and we hope that we can do that. This  
14 problem with the Richardsons is in each of these units and  
15 there may be other reasons that he's here, but that's  
16 certainly, you know, from a title standpoint. We're going to  
17 continue our due diligence. We're going to be back here next  
18 month on these three to deal with these two folks and we  
19 ought to have an answer for you.

20                   Now with regard to each of these three units  
21 though, Les, we do want to add Lonnie Richardson and Barbara  
22 Hughesman?

23                   A.       That's correct.

24

--

1 Q. If I'm pronouncing that right. Correct?

2 A. Correct.

3 Q. Okay. And that would be true of 34 and...

4 I'm having trouble locating B-2.

5 A. It's all three of them.

6 Q. It's all three of them? Okay. And in all

7 three, are we also seeking to dismiss Carol Sue Hale?

8 A. Yes, we are.

9 Q. With regard to...let's kind of work our way

10 through them one at a time. Let's start with E-34, if we

11 can. That's the first one on the docket of these three.

12 Okay?

13 A. Okay.

14 Q. If you want to go to A, page two...in this

15 instance, you got to go to the revised one that the Board got

16 today. Would you summarize the position in terms of leased

17 and unleased acreage as of today?

18 A. From the coal owner's standpoint, we have

19 100% of the coal leased beneath this unit; a 100% of the coal

20 owners claim to the coalbed methane. We have 73.139% of the

21 oil and gas owners coalbed methane interest. We're seeking

22 to pool 26.861% of the oil and gas interest.

23 Q. Now if you just turn the page to the next

24

1 page B-3, do you see that?

2 A. Yes.

3 Q. These are the folks that you're seeking to  
4 pool, correct?

5 A. Yes.

6 Q. And it shows their acreage of their tract  
7 that's within the 80 acre unit?

8 A. Yes.

9 Q. And then that acreage is divided by 80 acres  
10 and that generates the percentage that's shown in the far  
11 right hand column?

12 A. Yes, it does.

13 Q. And that percentage, we've covered this a  
14 few times today, but with regard to these three units, if a  
15 claimant were to take that percentage and multiply it times a  
16 one-eighth royalty, which is 12 1/2%---?

17 A. Correct.

18 Q. ---times whatever the dollar amount of the  
19 royalty was, that would be how they would calculate their  
20 share of royalty, correct?

21 A. It would, yes.

22 Q. And if they were going to participate in  
23 this unit and wanted to know what size check they would need  
24

1 to write to be a partner, they would take this percentage  
2 times the estimated well cost, correct?

3 A. Yes.

4 Q. And the same would be...percentage would  
5 pertain to carried interest and the multiples of that?

6 A. Yes, it would.

7 Q. Okay. The...let's stay with EE-34 and let's  
8 turn to the well. We've already indicated it's one well in  
9 the drilling window, but what is the status of that well, the  
10 depth and the cost?

11 A. That permit, EE-34, was issued July 1st of  
12 this year, permit number 5406. It's an estimated depth of  
13 2,620 feet, estimated cost of \$234,133.84.

14 Q. Staying with the same EE-34, let's look at  
15 the revised Exhibit E, okay. And is escrow required here?

16 A. Yes, it is, due to conflicts in 1-A, 3-A,  
17 3-B, 3-C, 3-D and 3-E.

18 Q. And is it true that at least with regard to  
19 EE-34, you've identified everybody and you have an address.  
20 So we don't need to escrow for those reasons?

21 A. That's correct.

22 Q. Looking at the original application, are  
23 there any split agreements with regard to EE-34?

24

--

1           A.       Yes, there is in one tract.

2           Q.       So, with regard to EE-34, there's a split  
3 agreement concerning tract 1-B?

4           A.       Yes.

5           Q.       And that request, I take it, that the Board  
6 allow the operator to pay Coal Mountain and Pocahontas Gas  
7 Partnership their royalties directly in accordance with their  
8 split agreement as opposed to escrow?

9           A.       Yes, we would.

10          Q.       Let's turn to EE-35.

11          BENNY WAMPLER: Before we do that, let me take  
12 questions on 34, if there are any questions or comments on  
13 that?

14          MARK TUGGLE: Okay. If they signed an agreement  
15 with the coal owner saying that they can draw their money  
16 straight out of escrow, then why is our money put into  
17 escrow? You already have an agreement from the coal  
18 operator. We're the gas owners and if they already have the  
19 other 50% signed, then why is our money put in escrow?  
20 Shouldn't our money be...basically, they've come to an  
21 agreement with the coal mineral owner, shouldn't our money be  
22 forwarded to us, too, instead of placed in escrow? The money  
23 is going to be taken out and they will just charge service  
24

1 charges and everything and we're not going to get a cent out  
2 of it is basically what's going to happen when this is  
3 escrowed. Now, if they've already come to an agreement,  
4 which they have on all these wells around with the mineral  
5 owner, shouldn't the money automatically be forwarded to us  
6 instead of putting into escrow?

7 BENNY WAMPLER: You want to address that?

8 MARK SWARTZ: Well, the short answer is you need to  
9 enter into an agreement with the coal owner because you're  
10 the one that has a conflicting claim. So, if you can reach  
11 an agreement with the coal owner, you know, whatever you can  
12 agree on, it will be paid to you instead of into escrow. The  
13 agreement I just referred to with regard to EE-34 concerning  
14 Pocahontas Gas Partnership and the coal owner, Pocahontas Gas  
15 Partnership actually owns the oil and gas claim there and the  
16 coal owner and they have settled their ownership claims. So  
17 you would have to track down the coal owner and try and cut a  
18 deal with them. But, the short answer is if you do that, you  
19 will be paid.

20 BENNY WAMPLER: You just come to the Board and  
21 present the agreement to both parties and the Board would  
22 order a disbursement of whatever is in escrow at that point,  
23 and then from that point forward pay directly. They're just  
24

--



1 doing it now as part of the order where it could be ordered  
2 to pay directly to begin with. Does that make sense?

3           MARK TUGGLE: Partially, but the whole...I guess  
4 the coalbed methane issue is raised because the coal owner is  
5 saying that we own the gas and the gas owner is saying, we  
6 own the gas. Now, if the coal owner has already signed his  
7 right away to, you know, CSX or CNX, then they give up their  
8 right. So they say that, you know, yes, we've sold our right  
9 to them, then what holds...then what legally holds our money  
10 in escrow if the coal owner, the mineral owner has already  
11 said, you know, yes, we agree to sell it to you. They give  
12 up their rights on the gas. The only thing left is our  
13 money. What would the mineral owner...what would his stance  
14 be if he's already signed it away. It should be disbursed  
15 ...you know, if they sign their rights away.

16           BENNY WAMPLER: You got to first think in this  
17 unit, okay. And in this unit, you have a carve out by tract.  
18 They're saying on that particular tract they have...they own  
19 the gas. They held the gas position and they negotiated with  
20 the coal owner and came to an agreement, whatever that is.  
21 We don't know what that is. They don't have to disclose that  
22 part of it. But, at this point in time, they're just saying  
23 they have an agreement, split agreement. You could do the

24

--

1 same thing with that same coal owner to say we want...you  
2 know, let's agree that for my proportionate share here,  
3 whatever it is, if it's 1/100th or 80%, your gas interest,  
4 negotiate that and come to the Board, a petition to come  
5 before the Board. If you had that agreement, then we would  
6 order a disbursement. But, the coal owner here, the way you  
7 were looking at it, I think, and I'm hoping now we're  
8 explaining it, is you were thinking the coal owner is saying  
9 for this entire unit, I agree, you know, that I'm going to  
10 split this, whatever. That's not the case here. They're  
11 just saying the portion that they own the gas interest, they  
12 negotiated with the coal owner for just that particular tract  
13 within that unit. So, it gets to that---.

14           MARK SWARTZ: They have a different coal owner. I  
15 mean, if you look at...you're Dolly Belcher, right?

16           MARK TUGGLE: Yes.

17           MARK SWARTZ: If you look at tract 3-A, your coal  
18 owner that you're in conflict with is Swords Creek.

19           MARK TUGGLE: Pocahontas Gas...okay.

20           MARK SWARTZ: Swords Creek Land Partnership---.

21           MARK TUGGLE: Right.

22           MARK SWARTZ: ---is the coal owner in tract 3-A and  
23 Dolly Belcher is the oil and gas owner. The only agreement  
24

1 we have as operator with Swords Creek is we've got a lease  
2 from them. They have retained their royalty interest, so  
3 they've hung onto 12 1/2% of their claim and we've got a  
4 lease covering an 87 1/2% working interest. So, you know, we  
5 don't have anything to sell or work out with anybody in terms  
6 of that 12 1/2%. You know, that's not on the table here. So  
7 what you need to...you don't need to, but if you want to  
8 settle, that's what you would approach them, and you would  
9 say, I understand you've leased your working interest.  
10 You've retained your royalty interest. You know, we  
11 claim...we've got a royalty interest in this gas. Are you  
12 willing to split it with us and we won't have to sue each  
13 other and we'll go on with our lives. I mean, that's what  
14 people do. But it's not...you know, we don't...the operator  
15 does not own Swords Creek Land Partnership's royalty claim.  
16 They own it. In tract 1-B where Coal Mountain and Pocahontas  
17 settled, Pocahontas Gas Partnership actually owns the oil and  
18 gas. It's not a lease. They own 100%. So we've got the  
19 87 1/2%, plus the 12 1/2%. But in your situation, we don't  
20 have that royalty interest. So that's the difference. So  
21 you need to work with them, if you want to. You don't have  
22 to, you know, but that's where you would go.

23                   MARK TUGGLE: And that's where this Pocahontas Gas

24

--

1 Partnership coalbed methane lease comes into play, that  
2 you've leased it from---?

3 MARK SWARTZ: Well, we've leased it from---.

4 MARK TUGGLE: ---Swords Creek?

5 MARK SWARTZ: We have taken...we have to lease  
6 everything twice or get a Board order to deal with what we  
7 can't lease twice because we can't...you know, they're both  
8 ...everybody says, we own it. So we go out and take a lease  
9 from the coal owner. We go out and take a lease from the oil  
10 and gas owner. And so that we have...and if we can't do  
11 that, then we come to the Board and say we haven't been able  
12 to lease this owner, this piece of it, or whatever. And the  
13 Board accomplishes, in effect, you know, a mechanism whereby  
14 that can...the production can go ahead, the money gets  
15 escrowed or whatever. But we don't...but when we take a  
16 lease, the people hang onto their royalty interest.

17 MARK TUGGLE: What I have a question with is line  
18 four of 3-A, on the ownership where you have Pocahontas Gas  
19 Partnership coalbed methane leased.

20 MARK SWARTZ: Right. That's from Swords Creek.

21 MARK TUGGLE: Okay. That's what I was asking.

22 BENNY WAMPLER: Did you have anything further?

23 MARK TUGGLE: This is one of those other tracts we  
24

1 offered them a \$20 an acre lease and they said that it's too  
2 high, they don't modify their leases and we're back at square  
3 one again. So that's all that I have.

4 BENNY WAMPLER: Let's go on to the next one.

5 Q. Let's move on to EE-35, okay, Les.

6 A. Yes.

7 Q. Let's look at Exhibit A, page two, and what  
8 we need to look at here is the revised one that you all got  
9 today.

10 A. Yes.

11 BENNY WAMPLER: Let me just stop you and I didn't  
12 ask the Board if you had questions on 34, and I apologize for  
13 that. Is there questions from members of the Board?

14 (No audible response.)

15 BENNY WAMPLER: Okay. Go ahead.

16 Q. Let's turn to the revised Exhibit A, page  
17 two, which is in the exhibits you all got today on EE-35.  
18 Les, would you explain to the Board where we stand on this  
19 unit in terms of leased and unleased acreages?

20 A. We have underneath this unit, 17.1625% of  
21 the coal leased; and we have 73.3893% of the coal owners  
22 coalbed methane interest leased. We have 71.9657% of the oil  
23 and gas owners coalbed methane leased. We're seeking to pool  
24

--

1 26.6107% of the coal owners coalbed methane interest, and  
2 28.0343% of the oil and gas owners coalbed methane interest.

3 Q. And the page just in front of the A page two  
4 that we've been talking about, the amended Exhibit B-2, again  
5 shows that we've leased somebody and we need to add these two  
6 people that we spoke of earlier?

7 A. That's correct.

8 Q. The Richardsons.

9 A. Right.

10 Q. Then if we go to the next revised exhibit,  
11 which is behind A page two, you've got a revised Exhibit B-3,  
12 correct?

13 A. We do, yes.

14 Q. And this list...does revised Exhibit B-3  
15 list the folks that you're seeking to pool in EE-35?

16 A. Yes, it does.

17 Q. If you keep going, we've got an Exhibit E,  
18 correct?

19 A. Yes.

20 Q. And that indicates that escrow is required?

21 A. Yes, it does.

22 Q. And why is that?

23 A. For unknown owners and for conflicts in  
24

--

1 tract 2-A and 2-B. The unknown owners being in tract 4.

2 Q. And do we have a split agreement with regard  
3 to unit 35...EE-35?

4 A. Yes.

5 Q. It looks like we do?

6 A. Yes, we do.

7 Q. And you have a split agreement which is  
8 disclosed...or split agreements which are disclosed in  
9 Exhibit EE to Exhibit...to unit EE-35, which shows that  
10 tracts 1-A and 1-B are at least in part subject to split  
11 agreements between Coal Mountain and Pocahontas Gas  
12 Partnership?

13 A. That's correct, it does.

14 Q. And are you requesting that when the Board  
15 ...if the Board pools these units, it allow Coal Mountain and  
16 Pocahontas Gas Partnership to receive their royalties  
17 consistent with their split agreement?

18 A. Yes, it is.

19 Q. Now, staying with unit EE-35, we're talking  
20 about one frac well, correct?

21 A. Yes.

22 Q. Could you tell the Board what the permitting  
23 and drilling status and the cost of that well is?

24

--

1           A.       Yes. The permit is 5422, issued July 8th of  
2 2002, to be drilled to an estimated depth of 2,665 feet,  
3 estimated cost of \$235,545.37.

4           Q.       Let's move on to unit...unless there's some  
5 questions here, FF-35.

6           A.       FF-35...EE---.

7           Q.       We just did EE-35.

8           BENNY WAMPLER: Let's take a question on EE-35, if  
9 there is one.

10          SAMUEL CAMPBELL: I'd like to pose some questions  
11 to Mr. Arrington, please.

12          BENNY WAMPLER: Sure.

13          SAMUEL CAMPBELL: Mr. Arrington, how do you  
14 determine who gets notice on the...for these pooling  
15 applications? I may answer that question, but I'll give you  
16 ...my particular interest is for the interest of Gladys  
17 Johnson, Claudine Campbell and Henry Clarence Plaster, whom I  
18 wrote you a letter about the first of August. I didn't get a  
19 response, but in any event, Mrs. Johnson's name is on the tax  
20 ticket for this property, this tract of land which is  
21 assessed for mineral rights only. It's taxed that way by the  
22 Commissioner...or assessed that way by the Commissioner of  
23 Revenue of Russell County and taxed that way by the Treasurer  
24



1 and it has an address which happens to be mine. Do you all  
2 not check tax records or with the Commissioner of Revenue?

3 MARK SWARTZ: The way we did the title on this  
4 since I'm more familiar with the title...I guess I can be  
5 sworn here.

6 (Mark Swartz is duly sworn.)

7 MARK SWARTZ: We received a letter from Mr.  
8 Campbell and essentially what he was telling us was that he  
9 thought there were five children in the chain as opposed to  
10 the eight that we were assuming. He sort of zeroed in on a  
11 difference, which obviously would make a percentage  
12 difference interest if you are one of five kids or one of  
13 eight, you're going to have a bigger or smaller percentage.

14 Now to get to his question of how do we determine  
15 who we want to give notice to, we do look at the tax records,  
16 but tax records are not instruments of title. So it's a  
17 starting point to identify people. But what we relied on  
18 here to propose, at least in the notices and in this unit,  
19 was actual title documentation recorded in the record room  
20 and principally what we focused on, although we had a title  
21 opinion from Altizer, Walk & White, principally what we have  
22 focused on is a...starting in reverse order is when a fellow  
23 by the name of A. L. McGlothlin died and his widow was...or

24

--

1 his estate was probated in Tazewell County, there was a list  
2 of heirs that was incorporated in the Court records, and this  
3 would have been back in December of 1940. And that list of  
4 heirs identified that A. L. McGlothlin was one of eight  
5 children. So, in December of 1940, we have an indication  
6 that we were dealing with eight kids. When we work that back  
7 in time, there was a partition action...let me find that  
8 date.

9 (Mr. Swartz reviews his notes.)

10

11 MARK SWARTZ: There was a partition of the lands of  
12 a gentleman by the name of Henry J. McGlothlin and that was  
13 back in May of 1906. And in the proceedings which are, you  
14 know, in the Courthouse with regard to the partition action  
15 concerning Henry J. McGlothlin there was...it was a partition  
16 between his wife and eight children who took as his heirs.  
17 Now, I will concede...and obviously we have, you know, done  
18 the diagram and so forth. Now, what Mr. Campbell is telling  
19 us is that it's his understanding that the wife of J. P.  
20 McGlothlin, and I'm not real clear from this letter, but it  
21 seems to suggest this, had five children and raised three  
22 more. I mean, that's what he says in his letter. The  
23 problem that we have is of record in the county everything

24

--

1 that we see is consistent with eight children. You know, we  
2 see, you know, at the death in 1940, one of the children dies  
3 and he has got seven brothers and sisters and it doesn't say  
4 step this or any...I mean, it's seven brothers and sisters  
5 totaling eight. Then we've got the 1906 partition action  
6 where the mother, you know, waives some more significant  
7 rights that she had and the property split between her...  
8 partitioned between her and eight children. Now...I mean,  
9 you know, we're willing to be convinced that the stuff that's  
10 of record needs to be fixed, but nothing that we have seen of  
11 record, and we've spent a fair amount of time on this,  
12 answers that question. So, to be prudent, we are including  
13 ...we are assuming there were eight kids and noticing them to  
14 the extent we've been able to identify their heirs and that's  
15 why Mr. Campbell thinks it should be five because...totally  
16 from his family he has been told she had five kids and raised  
17 eight and there's some distinction there. But, you know, we  
18 don't...what we see in the record room causes us to be of the  
19 view that, you know, it looks like they had eight children,  
20 at least that's what is of record. And that's the way we've  
21 listed the folks. I realize it's kind of a long answer. But  
22 I wanted you to know that we have...you know, we have gone to  
23 the record room and researched this title and the heirs and

24

--

1 that's where we are and why we're there. You know, we remain  
2 willing to be persuaded else...you know, otherwise. But  
3 we're going to need some affidavits and so forth. So, that's  
4 where we are on the title issue.

5 BENNY WAMPLER: Mr. Campbell?

6 SAMUEL CAMPBELL: Thank you, Mr. Chairman. Mr.  
7 Swartz has...I guess he has answered the question that I  
8 hadn't gotten to yet. In any event, the...yes, the  
9 information I have comes from my mother who is...the Emily  
10 McGlothlin here is her great grandmother. I tend to think  
11 it's credible. But anyway that's ownership interest. My  
12 point is if the interest is in eighths, if the denominator is  
13 eight, if it's six, if it's five or whatnot, it affects the  
14 interest that the applicant claims to already have under  
15 lease because it either enlarges it or diminishes. We need  
16 accurate information there. They have chosen to run with  
17 eight, and I understand Mr. Swartz's explanation. Although I  
18 don't think that is correct. But it does affect the  
19 denominator. It affects the percentages and it affects who  
20 gets what all the way down the line as to this unit, in  
21 particular tract four. The other question, I think, has been  
22 partially answered by Mr. Swartz is in the budget, or the  
23 schedule of anticipated costs for this, there's a line item

24

--

1 entry for location and title, etc. totaling \$47,000 which  
2 seems to be a rather popular number because it's in all three  
3 units. I'm wondering to whom is that paid or will it be  
4 paid?

5 MARK SWARTZ: Les.

6 LESLIE K. ARRINGTON: That includes surveying,  
7 location, the building of the site, title work, title  
8 opinions; it includes gravel for the sites when the site is  
9 constructed.

10 SAMUEL CAMPBELL: Okay. But your exhibit, this one,  
11 it shows the unit upon which you base the calculations of  
12 interest units. Exhibit B-3, you calculate interest in the  
13 unit overall. It is based upon an acreage as determined off  
14 of---.

15 LESLIE K. ARRINGTON: That plat.

16 SAMUEL CAMPBELL: This plat, okay. Then you say  
17 the property lines shown were taken from maps provided by CNX  
18 Land Resources. That's your own company?

19 LESLIE K. ARRINGTON: Yes, sir.

20 SAMUEL CAMPBELL: And were not surveyed. But you're  
21 making a determination of who gets what and who has what now  
22 to have that incorporated into your order but you really  
23 don't know what the percentage is. You're saying that this

24

--

1 tract four has sixteen acres and some change. It may be ten  
2 or it may be twenty-five, is that correct?

3 LESLIE K. ARRINGTON: We plat the property to the  
4 topo according to whatever documents are on file in the  
5 courthouse and the available survey information that has been  
6 done in the past.

7 SAMUEL CAMPBELL: You use the computer program to  
8 calculate it.

9 LESLIE K. ARRINGTON: Computers, hand generation  
10 by...we have draftsmen that that's what they do all day long.

11 SAMUEL CAMPBELL: But if you're...I guess my inquiry  
12 is if you're satisfied that this is right now, why do you  
13 want to survey it again?

14 LESLIE K. ARRINGTON: We survey the location for  
15 the well.

16 SAMUEL CAMPBELL: Oh, okay. That's 47,000 for each  
17 unit?

18 LESLIE K. ARRINGTON: No, no. For the well site  
19 itself. Now, not for the---.

20 SAMUEL CAMPBELL: If you have---.

21 LESLIE K. ARRINGTON: The 47,000 is site  
22 construction, gravel on that site, title work. It's not...  
23 it's not just \$47,000 to survey it. No, sir.

24

--

1           SAMUEL CAMPBELL: Okay. I understand that. We  
2 have...right here we have the three contiguous units.  
3           LESLIE K. ARRINGTON: Okay.  
4           SAMUEL CAMPBELL: They each have the identical  
5 number.  
6           LESLIE K. ARRINGTON: It will have. Because until  
7 we get out there building on it, any particular site...we may  
8 have some sites at 15,000---.  
9           SAMUEL CAMPBELL: Uh-huh.  
10          LESLIE K. ARRINGTON: ---and then when you get in  
11 the area, you may also have a site of 50,000.  
12          SAMUEL CAMPBELL: Okay.  
13          LESLIE K. ARRINGTON: So, we use an estimate.  
14          SAMUEL CAMPBELL: Right. I understand. So,  
15 if...but if somebody wants to participate---.  
16          LESLIE K. ARRINGTON: Okay. That's a good  
17 question.  
18          SAMUEL CAMPBELL: If somebody wants to participate,  
19 you've aimed high.  
20          LESLIE K. ARRINGTON: Okay. The answer to that  
21 question is, when someone participates in a well, as you  
22 develop that well, we have to provide the Gas and Oil Board  
23 with revised AFEs showing the as completed cost.

24

--

1           SAMUEL CAMPBELL: But still their initial...their  
2 initial investments is based---.

3           LESLIE K. ARRINGTON: That's correct.

4           SAMUEL CAMPBELL: ---upon these estimated costs.

5           LESLIE K. ARRINGTON: It is initially. And then  
6 there could be...they may owe us money or we may owe them  
7 money.

8           SAMUEL CAMPBELL: Okay. But I take it this number  
9 is just an arbitrary number?

10          LESLIE K. ARRINGTON: Initially. Based upon on  
11 past practices of knowing what things do cost.

12          SAMUEL CAMPBELL: I think I've already talked  
13 about...we've already talked about how you determine that  
14 acreage. One last question and I'll shut up. The initial  
15 notice and proposed order and exhibits indicate to me that  
16 you are proposing to escrow everything...I'm looking at the  
17 original exhibit B-3 dated 7/19/02. That you're proposing to  
18 escrow everything for tract four for these...at least...tell  
19 me, is it for everybody that you've listed here or just for  
20 the ones you have stated as unknown.

21          LESLIE K. ARRINGTON: I believe tract four is a fee  
22 tract. If someone...if we have the address and the proper  
23 ownership information, that person will be paid directly

24

--



1 according to the Board order. The only escrow in that tract  
2 will be the address unknown part.

3 SAMUEL CAMPBELL: Okay, and I furnished two  
4 addresses.

5 LESLIE K. ARRINGTON: Yes, sir.

6 SAMUEL CAMPBELL: And although you...in your  
7 revised exhibit, you still list Rebecca Jane Plaster as a fee  
8 owner. I think you will find she is not. She is a  
9 remainderment, but not the fee owner at the present. You're  
10 prepared... anybody on tract four for unit EE-35, you're  
11 prepared to pay them directly and whatever royalties may be  
12 due them depending on which of those options---?

13 LESLIE K. ARRINGTON: That's correct.

14 SAMUEL CAMPBELL: ---opt for? And that's at  
15 standard royalty, I take it, of a \$1 an acre, one-eighth  
16 production royalty?

17 LESLIE K. ARRINGTON: That's correct.

18 SAMUEL CAMPBELL: Have you...have you offered or  
19 paid other owners in EE-35 a greater rate?

20 LESLIE K. ARRINGTON: Our standard rate is that  
21 figure. To tell you specifics, I can't answer that.

22 SAMUEL CAMPBELL: Thank you, sir.

23 BENNY WAMPLER: Any questions from members of the  
24

--

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: You can go on to the next one.

4 MARK SWARTZ: The next one is FF-35.

5

6 LESLIE K. ARRINGTON

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. This is a larger Oakwood unit, right?

10 A. Yes, it is.

11 Q. Would you go to the revised Exhibit A, page  
12 two, Les, and let us know what the status of leasing on this  
13 unit might be?

14 A. Yes. Below this unit, we have 33.2998% of  
15 the coal leased. We have 73.6618% of the coal owners's  
16 coalbed methane leased. And we have 66.5476% of the oil and  
17 gas owners's coalbed methane leased. We're seeking to pool  
18 26.3382% of the coal owners's coalbed methane interest and  
19 33.4524 of the oil and gas owners's coalbed methane interest.

20 Q. Okay. And on this particular unit there's  
21 is an exhibit B-2, is there not?

22 A. Yes, it is.

23 Q. And does that show three parties that you're  
24

--

1 asking the Board to dismiss because you have...well, one  
2 party, William Glenn Wilson and a second, Carol Sue Hale that  
3 you're asking be dismissed from this proceeding because  
4 you've obtained leases from them?

5 A. Yes, we are.

6 Q. And then we've got the same Lonnie  
7 Richardson and Barbara Hughesman matter that we've talked  
8 about before---?

9 A. That's correct.

10 Q. ---that were joining those folks? Now, if  
11 we go to Exhibit B-3, is this a list of the folks that you've  
12 seeking to pool at this hearing today?

13 A. Yes, it is.

14 BENNY WAMPLER: Is that revised Exhibit B-3 you're  
15 talking about?

16 MARK SWARTZ: Yes.

17 Q. And does this Exhibit B-3 list some folks,  
18 for example in tract 2-A, that you do not have addresses for?

19 A. That's correct.

20 Q. And so some of the folks listed in Exhibit  
21 B-3 because of their unlocateable status will require escrow?

22 A. That's correct.

23 Q. Okay, and if you get addresses, then  
24

1 obviously we'll...between now and the filing of the  
2 supplement order, you'll bring that to the Board's attention?

3 A. Yes, we will.

4 Q. Okay. In Exhibit E, have you listed the  
5 tracts and the folks whose interest are in conflict and  
6 require escrow because of a conflict?

7 A. Yes. We listed tract 2-A, 2-B, 2-D, 2-E, 2-  
8 F, 2-G.

9 Q. Okay. And the tract four that Mr. Campbell  
10 has been interested in is not listed on Exhibit E, is it?

11 A. No, I think he was...was he in this unit?  
12 B-3, he's not on it.

13 SAMUEL CAMPBELL: If you're on FF-35, I'm not.

14 Q. Okay.

15 A. He's not in it.

16 Q. He was in the prior unit in tract four.  
17 Okay.

18 A. He's not in this unit.

19 Q. Okay. All right, so the tracts are all 2  
20 and associated letters---?

21 A. Yes.

22 Q. ---in FF-35?

23 A. Yes.

24

--

1                   Q.       I'm sorry. I was mistaken. Okay, now is  
2 there...looking at the original application in FF-35, is  
3 there a situation here, also, it looks like there is, that we  
4 have split agreements? Do you see that?

5                   A.       Yes, it is.

6                   Q.       And in this unit FF-35, there is an Exhibit  
7 EE?

8                   A.       Yes, it is.

9                   Q.       Which indicates that Swords Creek Land and  
10 Pocahontas Gas Partnership in tract 2-C have entered into a  
11 split agreement, correct?

12                  A.       That's correct.

13                  Q.       And are you requesting that the Board in any  
14 order it might enter take that into account and allow the  
15 operator pay them directly in accordance with their split  
16 agreements?

17                  A.       That's correct.

18                  Q.       Going back to 34 for a minute. Mr. Campbell  
19 indicated that, and he says this in his letter, that one of  
20 the folks that we have listed as a fee owner is, in fact,  
21 a...let me see if I can find this page.

22                  BENNY WAMPLER: While you're doing that, let me  
23 just get something clarified for the record. You're going

24

--

1 back to EE-34. We're on FF-35.

2 MARK SWARTZ: Correct.

3 BENNY WAMPLER: Okay.

4 MARK SWARTZ: I sort of finished that, in my mind  
5 anyway, and I wanted to go back on one title issue. Give me  
6 one moment here.

7 (Mr. Swartz reviews his notes.)

8 MARK SWARTZ: What Mr. Campbell has indicated to  
9 us, and we have yet to confirm this and would like to do that  
10 before, and sort of put up a warning flag, I guess, before  
11 ...to give us an opportunity to file an amended exhibit  
12 before the order is entered, he has told us that Dorothy  
13 Robinson Plaster deeded her son Henry Terrence Plaster a life  
14 estate with the remainder to Rebecca Jane Plaster. You know,  
15 if we can run that down, I think we need to correct our  
16 Exhibit B-3 to show that so that we've got it right. It  
17 doesn't change the interest but it changes the folks who have  
18 the interest and the nature of the interest. Now, I assume  
19 that Mr. Plaster would receive the royalty for his life in  
20 all probability. But we need to...we need to see that  
21 (inaudible). But we have not...we need to adjust for that if  
22 we're able to confirm that.

23 BENNY WAMPLER: We're continuing these three anyway

24

--

1 until next time.

2 MARK SWARTZ: Right. Oh, that's right.

3 BENNY WAMPLER: So, you'll have an opportunity---.

4 MARK SWARTZ: So, we'll be able to...we'll be able  
5 to take care of that. But that is...but that is a loose end  
6 that we feel we might be able to resolve in between now and  
7 then in terms of...in terms of title.

8

9 DIRECT EXAMINATION RESUMES

10 QUESTIONS BY MR. SWARTZ:

11 Q. Mr. Arrington, with regard to these units  
12 collectively now. We've indicated that they're all Oakwood I  
13 units, right?

14 A. Yes, they are.

15 Q. What is the pool that you're seeking to  
16 develop with the wells?

17 A. From the tiller...from below the Tiller seam  
18 on down to the top of the red and green shales.

19 Q. Okay. And the red and green shales lie  
20 below the Pocahontas No. 3 seam, correct?

21 A. They do.

22 Q. Okay. Is it your opinion that the  
23 development plan that's disclosed by the plats and the

24

--

1 exhibits pertaining to these three applications is a  
2 reasonable method to develop coalbed methane under these  
3 three Oakwood units?

4 A. Yes, they are. Yes, it is.

5 Q. And is it your further opinion that given  
6 the leases, the split agreements and the pooling orders, if  
7 the Board opts to do that, that all claimants and owners will  
8 have their correlative rights protected?

9 A. Yes, it does.

10 MARK SWARTZ: That's all I have.

11 BENNY WAMPLER: Sir, you had the questions  
12 regarding, I believe, the Richardson heirs.

13 PAUL RICHARDSON: Okay, I'm going back to EE-35.  
14 Beulah Hale owns the coal, oil and gas. Until that's  
15 decided, that will have to be put in escrow. It will all  
16 resolve that gas.

17 BENNY WAMPLER: We're talking EE-35?

18 PAUL RICHARDSON: Uh-huh.

19 BENNY WAMPLER: Which tract was that in, do you  
20 know, just to help us?

21 LESLIE K. ARRINGTON: It's tract number six.

22 BENNY WAMPLER: Number six?

23 LESLIE K. ARRINGTON: Yes.

24

--



1                   PAUL RICHARDSON: Tract six.

2                   BENNY WAMPLER: We've got a revised Exhibit E,  
3 don't we, for that? It's not currently proposed for escrow.  
4 Now, is your question should it be?

5                   PAUL RICHARDSON: Yes.

6                   BENNY WAMPLER: Because of---?

7                   PAUL RICHARDSON: I've owned the surface rights and  
8 she owns the coal and mineral rights.

9                   LESLIE K. ARRINGTON: The mineral owner will be  
10 paid, since it's the coal, oil and gas, according to the  
11 Board order.

12                   SAMUEL CAMPBELL: May I pose two questions again on  
13 EE-35?

14                   BENNY WAMPLER: Go ahead.

15                   SAMUEL CAMPBELL: Mr. Arrington, again, in  
16 engineering status, what effect would this well's operation  
17 have on the minability of the coal on the tract?

18                   LESLIE K. ARRINGTON: If you're speaking to the  
19 fracture of it, the coal seams, to date we've had no  
20 problems.

21                   SAMUEL CAMPBELL: And does Pocahontas Gas group or  
22 any of its partners, subsidiaries, also have or plan to  
23 develop the methane gas bed, methane well, sorry, on unit EE-  
24

1 36, which is adjoining...immediately adjoining to the east?

2 Do you know?

3 LESLIE K. ARRINGTON: Yes.

4 SAMUEL CAMPBELL: Yes, you---.

5 LESLIE K. ARRINGTON: Yes, we are and I'm presently  
6 working on that.

7 MARK SWARTZ: I'd like to go back to Mr. Richardson  
8 for a minute. If you look at the tract identifications for  
9 six, I mean, we have Beulah Hale owning the coal, oil and  
10 gas, and Mr. Richardson as owning the surface. We were aware  
11 of that coming in. I just wanted to make sure that you knew  
12 that our paperwork was consistent with that.

13 PAUL RICHARDSON: I understand.

14 BENNY WAMPLER: His question was, shouldn't she be  
15 escrowed.

16 LESLIE K. ARRINGTON: No, she shouldn't.

17 BENNY WAMPLER: And you're saying, no, she should  
18 not, because she's a mineral owner---.

19 LESLIE K. ARRINGTON: That's correct.

20 BENNY WAMPLER: ---and you're paying directly,  
21 proposing to pay directly to the mineral owner.

22 LESLIE K. ARRINGTON: Right.

23 BENNY WAMPLER: Do you have other questions?

24

--

1           PAUL RICHARDSON: Well, concern about the road,  
2 right-of-way on the road. EE-34, the EE-35, there's a  
3 question about the easement there where it leaves the county  
4 line...county road up to Edgar Wilson's house, there's a  
5 patch in there that she doesn't have the right-of-way, but  
6 still yet you're going across.

7           BENNY WAMPLER: You're saying a road that actually  
8 crosses your property---?

9           PAUL RICHARDSON: Yeah.

10          BENNY WAMPLER: ---at a certain point, accessing  
11 the well, pipeline or something associated with the well?

12          PAUL RICHARDSON: Yeah, because they put---.

13          MARK TUGGLE: Unit EE-34, if you'll look at the  
14 plat---.

15          BENNY WAMPLER: Okay.

16          MARK TUGGLE: He owns tract 3-D. They have an  
17 access road that takes off, you can see it, goes right on the  
18 corner of tract 3-D.

19          BENNY WAMPLER: Right.

20          MARK TUGGLE: They're also claiming that that's a  
21 state maintained road, or that was deeded to the state, VDOT.  
22 Mr. Miller looked it up in Russell County. His family did  
23 not sign that right-of-way to the state. So that was not  
24

1 given to the state, that 3-C. My mother owns the other  
2 tract, which is 3-A, beside of it, which we did sign the  
3 right-of-way to the state, but the state didn't accept it  
4 all. They only accepted half of it.

5 BENNY WAMPLER: When you say they claim...you say  
6 they claim the state owns it, you talking about they,  
7 Pocahontas Gas Partnership?

8 MARK TUGGLE: Pocahontas Gas is saying here on 3-C  
9 that VDOT owns that property. Now where you see the little  
10 670 down there, that's the house and garage area there.  
11 That's where the state maintenance ends. That's as far as  
12 they accepted. That's according to Mr. Miller with VDOT.  
13 Now they have installed this access road going from right  
14 over the corner there of section 3-D, up on tract 3-E,  
15 they've already installed that road. That's...it's already  
16 there in place. They've already dozed it and filled the  
17 hollow full and everything. So it is crossing Mr.  
18 Richardson's property without a easement or right-of-way.  
19 The other area that he's concerned about is on top of the  
20 mountain where the...which would be seen on EE-35. They're  
21 proposing a road and a well going on the top of his property  
22 that they do not have a lease or right-of-way.

23 BENNY WAMPLER: Which tract is that on 35?

24

--

1           MARK TUGGLE: Number six that he owns the surface  
2 on.

3           BENNY WAMPLER: Of course, we're getting outside  
4 the Board's jurisdiction here, but here again, basically you  
5 have...you know, if they have done that, you could have a  
6 trespass action.

7           MARK TUGGLE: Injunction put against them.

8           MARK SWARTZ: Mr. Arrington, with regard to EE-35,  
9 can we look at the plat here, okay?

10          LESLIE K. ARRINGTON: Okay.

11          MARK SWARTZ: There's quite a bit of road in the  
12 window, the drilling window. Is that road built?

13          LESLIE K. ARRINGTON: Well, the proposed access  
14 road to well EE-35 is coming from the north down to that  
15 well. Then the additional road that you see leading  
16 from...to the south from well EE-35 appears to be down the  
17 center of a ridge, which is what it is.

18          MARK SWARTZ: Right.

19          LESLIE K. ARRINGTON: That is what we...our  
20 proposed road has not been submitted to date and there is an  
21 existing... some type of old right-of-way that was excepted  
22 and reserved down through there.

23          MARK SWARTZ: Specifically, there's a road on the  
24

1 plat of EE-35 that appears to be on tract six.

2 LESLIE K. ARRINGTON: Correct.

3 MARK SWARTZ: Is that road built as we sit here  
4 today?

5 LESLIE K. ARRINGTON: Not as far as our company  
6 goes. It's proposed.

7 MARK SWARTZ: I understand. That's all I have.

8 BENNY WAMPLER: Since you talked about that, let's  
9 go to EE-34 and look at that one. Is that road that's on 3-  
10 D, is it built?

11 LESLIE K. ARRINGTON: That road is in there. When  
12 we one we constructed that road, we constructed it according  
13 to VDOT right-of-way issues that, as you can see, we have on  
14 our maps. I think...we assumed that the right-of-way  
15 included that little section of road that would have been on  
16 his tract.

17 MARK TUGGLE: You can clearly see their area of  
18 right ...their property line, little tic line that goes  
19 around through there. You can see clearly a access road  
20 crossing tract 3-D. That is not part of...I mean, anybody  
21 that can read a map can tell that's not part of VDOT right-  
22 of-way.

23 BENNY WAMPLER: Here again, just for everybody's

24

--

1 information, this is really not a Board jurisdiction issue.  
2 This is more into, if anything, a permitting action that you  
3 would raise, you know, concerned about disturbance on the  
4 surface, et cetera, with Mr. Wilson during that permitting...  
5 or permit modification action.

6 MARK TUGGLE: Will you notify us?

7 PAUL RICHARDSON: See, I got the letter about the  
8 gas permit the same day I got this. So, I had 15 days to  
9 file, but they done apparently had this permit for the gas  
10 well.

11 MARK TUGGLE: We didn't receive notice of the  
12 permit.

13 PAUL RICHARDSON: I got...I mean, you can look at  
14 the paper I signed, you'll see I signed for all this the same  
15 day.

16 BENNY WAMPLER: Mr. Wilson, do you have any  
17 information in that regard?

18 BOB WILSON: No, sir, I do not.

19 BENNY WAMPLER: Maybe at the next hearing, we can  
20 bring that back to the Board and address some of that, the  
21 notice specifically to these individuals regarding permitting  
22 on these two wells, okay. Any questions from members of the  
23 Board? I understand we're going to continue this to the next  
24

--

1 time. We're trying to get all the information on record  
2 here, so please, if there's anything else you have at this  
3 time, if you choose not to come back, we're trying to give  
4 you an opportunity...you're welcome to come back. We're not  
5 trying to prevent that. We're just simply trying to make  
6 available to you to get on record everything that you have  
7 concerns about.

8 PAUL RICHARDSON: I guess that's all on that.

9 (Board confers among themselves.)

10 BENNY WAMPLER: Do you have anything further, Mr.  
11 Swartz?

12 MARK SWARTZ: No.

13 BENNY WAMPLER: Do you folks feel like you had an  
14 opportunity to get what you need on record?

15 (No audible response.)

16 BENNY WAMPLER: These matters will be continued  
17 time. Thank you. The next---.

18 SAMUEL CAMPBELL: Can you tell me when the next  
19 hearing will be, or meeting will be?

20 BENNY WAMPLER: It will be the third Tuesday.  
21 September 17th, 9:00 o'clock, same time, same station.

22 The next item on the agenda is a petition from  
23 Equitable Production Company for pooling of a coalbed methane  
24

--



1 unit under the Nora Coalbed Gas Field Order identified as VC-  
2 504651, docket number VGOB-02-08/20-1059. We'd ask the  
3 parties that wish to address the Board in this matter to come  
4 forward at this time.

5 (Members of the audience confer concerning  
6 continued cases.)

7 (Exhibits are distributed.)

8 BENNY WAMPLER: Folks, I need to have you step  
9 outside if you're going to talk. I've got to have this next  
10 hearing. Sorry, can't keep the Board here all night.

11 The record will show there are no others. You may  
12 proceed.

13 JIM KISER: Mr. Chairman, members of the Board, Jim  
14 Kiser on behalf of Equitable Production Company. Our witness  
15 in this matter will be Mr. Don Hall. He was previously sworn  
16 this morning. I'll remind him that he's under oath.

17

18 DON HALL

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KISER:

21 Q. Mr. Hall, if you'd state your name for the  
22 Board, who you're employed by and in what capacity?

23 A. My name is Don Hall. I'm employed by  
24

--

1 Equitable Production Company as district landman.

2 Q. And do your responsibilities include the  
3 land involved here and the surrounding area?

4 A. They do.

5 Q. Are you familiar with Equitable's  
6 application seeking a pooling order for EPC well number VC-  
7 504651, which was dated July 19th, 2002?

8 A. Yes.

9 Q. Is Equitable seeking to force pool the  
10 drilling rights underlying the unit as depicted at Exhibit A,  
11 that being the plat to the application?

12 A. Yes.

13 Q. Does Equitable own drilling rights in the  
14 unit involved here?

15 A. Yes, we do.

16 Q. Prior to filing the application, were  
17 efforts made to contact each of the respondents listed in  
18 Exhibit B and an attempt made to work out an agreement  
19 involving a voluntary oil and gas lease?

20 A. Yes.

21 Q. What is the interest of Equitable in the gas  
22 estate within the unit?

23 A. We have 86.87% leased at this time.

24

--

1                   BENNY WAMPLER: Would you state the percentage  
2 leased again?

3                   Q.       87.86%?

4                   A.       Yeah, 87.86.

5                   BENNY WAMPLER: I think you said that the other  
6 way.

7                   Q.       He did. Must have been that lunch. What is  
8 the interest of Equitable in the coal estate in the unit?

9                   A.       The same, 87.86%.

10                  Q.       87.86%, okay. Are all the unleased parties  
11 set out in Exhibit B?

12                  A.       Yes.

13                  Q.       Are you familiar with the ownership of  
14 drilling rights of parties other than Equitable underlying  
15 this unit?

16                  A.       Yes.

17                  Q.       And what percentage of both the gas estate  
18 and the coal estate remains unleased?

19                  A.       12.14%

20                  Q.       Okay. Now we do have some unknown heirs in  
21 this unit. Were reasonable and diligent efforts made and  
22 sources checked to identify and locate these unknown heirs  
23 including primary sources such as deed records, probate  
24

1 records, assessor's records, treasurer's records, and  
2 secondary sources such as telephone directories, city  
3 directories, family and friends?

4 A. Yes.

5 Q. In your professional opinion, was due  
6 diligence exercised to locate each of the respondents named  
7 herein?

8 A. Yes, sir.

9 Q. Are the addresses set out in the Exhibit B  
10 to the application the last known addresses for the  
11 respondents?

12 A. Yes.

13 Q. Are you requesting this Board to force pool  
14 all the unleased interest as listed at Exhibit B?

15 A. Yes.

16 Q. And are you familiar with the fair market  
17 value of drilling rights in the unit here and in the  
18 surrounding area?

19 A. Yes.

20 Q. Could you advise the Board as to what those  
21 are?

22 A. Five dollar bonus, a five year term and one-  
23 eighth royalty.

24

--

1                   Q.       In your opinion, do these terms you have  
2 testified to represent the fair market value of and the fair  
3 and reasonable compensation to be paid for drilling rights  
4 within this unit?

5                   A.       They do.

6                   JIM KISER:   At this time, Mr. Chairman, as to the  
7 unleased parties listed in Exhibit B and their election  
8 options and various times and constraints on those options  
9 that was...testimony that was taken earlier today in VGOB  
10 docket number 02-06/18-1035 be incorporated.

11                  BENNY WAMPLER:   They will be incorporated.

12                  Q.       Now, in this particular case, Mr. Hall, even  
13 though we don't have conflicting claims, we do have unknowns,  
14 so does the Board need to establish an escrow account into  
15 which all costs and proceeds attributable to those unknown  
16 interests be paid and held until such time as they can be  
17 found or the Board...they can be paid by the order of the  
18 Board?

19                  A.       Yes.

20                  Q.       And who should be named operator under any  
21 force pooling order?

22                  A.       Equitable Production Company.

23                  Q.       Now, what is the total depth of the well  
24

1 under the plan of development?

2 A. 2642 feet.

3 Q. And the estimated reserves for this unit?

4 A. 450 million cubic feet.

5 Q. Are you familiar with the well costs for the

6 proposed well?

7 A. Yes, sir.

8 Q. Has an AFE been reviewed, signed and

9 submitted to the Board as Exhibit C to the application?

10 A. It has.

11 Q. Was this AFE prepared by an engineering

12 department knowledgeable in the preparation of such AFEs and

13 in particular knowledgeable in regard to well costs in this

14 particular area?

15 A. Yes.

16 Q. Does the AFE, in your opinion, represent a

17 reasonable estimate of the well costs for the planned well?

18 A. It does.

19 Q. Could you state for the Board both the dry

20 hole costs and the completed well costs?

21 A. The dry hole costs would be \$101,503, and

22 the completed well costs is \$227,472.

23 Q. Do these costs anticipate a multiple

24

1 completion?

2 A. They do.

3 Q. Does your AFE include a reasonable charge  
4 for supervision?

5 A. Yes.

6 Q. In your professional opinion, would the  
7 granting of this application be in the best interest of  
8 conservation, the prevention of waste, and the protection of  
9 correlative rights?

10 A. Yes.

11 JIM KISER: Nothing further of this witness at this  
12 time, Mr. Chairman.

13 BENNY WAMPLER: Mr. Hall, when you...there's all  
14 kinds of Ramseys in here, but there's several unknown. Have  
15 you talked to the others, and I assume you have and they  
16 don't know these that you have listed unknown addresses?

17 DON HALL: These are...this has been an ongoing  
18 thing for several years and this group of people, we've got  
19 maybe three other wells that we've come to the Board and  
20 we're continually working on that and this is where we are at  
21 this point.

22 JIM KISER: In fact, some of them usually show up.

23 And, you know, we've worked with them trying to get some of  
24

--

1 these unknowns located, too.

2 BENNY WAMPLER: Questions from members of the  
3 Board?

4 MASON BRENT: You're proposing to drill outside the  
5 window?

6 DON HALL: Yes, we'll...as you can see from the  
7 plat, the tract that we're force pooling is the Elbert Ramsey  
8 tract which is in the northeast corner of that tract. To be  
9 able ...since they also own the coal, you have to have a  
10 consent to stimulate to drill within 750 feet of a coal  
11 tract. Since we don't have a lease, or greater than 50% of  
12 these people leased, we had to set back 750 feet, or greater  
13 than 750 feet, from that tract. That threw us in Big Branch  
14 and we had to get on up out of the hollow to get a location  
15 that we could build and that's why it's outside the window.

16 Q. And have you, or will you through the  
17 permitting process, seek a location exception?

18 A. Yes.

19 BOB WILSON: Mr. Chairman, that location exception  
20 has been approved under the Nora Field Rules.

21 BENNY WAMPLER: Other questions?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?

24

--



1           JIM KISER: We'd ask that the application be  
2 approved as submitted, Mr. Chairman.

3           KEN MITCHELL: Motion for approval, Mr. Chairman.

4           BENNY WAMPLER: We have a motion for approval.  
5 Second?

6           MASON BRENT: Second.

7           BENNY WAMPLER: Second. Any further discussion?  
8 (No audible response.)

9           BENNY WAMPLER: All in favor, signify by saying  
10 yes.

11 (All members signify by saying yes.)

12           BENNY WAMPLER: Opposed, say no.  
13 (No audible response.)

14           BENNY WAMPLER: You have approval. The next item  
15 on the agenda is a petition from Equitable Production Company  
16 for a well location exception for proposed conventional gas  
17 well V-505256, docket number VGOB-02-08/20-1060. We'd ask  
18 the parties that wish to address the Board in this matter to  
19 come forward at this time.

20           JIM KISER: Mr. Hall is going to pass out exhibits.  
21 (Exhibits are distributed.)  
22 (Board members confer.)

23  
24  
~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Hall, if you could again state your name for the record, who you're employed by and in what capacity?

A. My name is Don Hall. I'm employed by Equitable Production Company as district landman.

Q. And do your responsibilities include the lands involved here for this unit and the surrounding area?

A. They do.

Q. Are you familiar with the application that we filed seeking a location exception for well number V-505256?

A. Yes.

Q. Have all interested parties been notified as required by Section (B) of the Virginia Gas and Oil Board Regulations?

A. They have.

Q. Would you indicate for the Board the ownership of the oil and gas underlying the unit for well V-505256?

1           A.       Pine Mountain Oil and Gas.

2           Q.       It's 100%?

3           A.       100%, yes.

4           Q.       Does Equitable have the right to operate any  
5 reciprocal wells?

6           A.       Yes.

7           Q.       That being P-30, the one well we're seeking  
8 an exception from?

9           A.       That's correct.

10          Q.       That's an exception we're seeking of about  
11 230 feet, is that correct?

12          A.       That's correct.

13          Q.       Are there any correlative rights issues?

14          A.       No.

15          Q.       Could you explain that?

16          A.       It's all Pine Mountain Oil and Gas property  
17 in that whole area.

18          Q.       Now in conjunction with the exhibit that you  
19 passed out to the Board, could you explain why we're seeking  
20 a location exception for this well?

21          A.       Basically, as it was earlier today, we can't  
22 really find a spot within this group of wells that we can get  
23 a legal location. It's...anywhere you move it, it would be  
24

1 less than 2500 feet from another well.

2 Q. So, if we were not...if the location  
3 exception would not be granted, would you project the  
4 estimated loss of reserves that would result in waste and  
5 would impact not only the royalty owner, but the state in the  
6 form of severance tax?

7 A. 600 million cubic feet.

8 Q. And what's the total depth of the proposed  
9 well under the plan of development?

10 A. 5,293 feet.

11 Q. Will this be sufficient to penetrate and  
12 test the common sources of supply in the subject formations?

13 A. It will.

14 Q. Are you requesting that this location  
15 exception cover conventional gas reserves to include the  
16 designated formations from the surface to the total depth  
17 drilled?

18 A. Yes.

19 Q. In your opinion, would the granting of this  
20 location exception be in the best interest of preventing  
21 waste, protecting correlative rights and maximizing the  
22 recovery of the gas reserves underlying V-505256?

23 A. It would.

24

--

1           JIM KISER: Nothing further of this witness at this  
2 time, Mr. Chairman.

3           BENNY WAMPLER: Your exception is to P-30, is that  
4 correct?

5           DON HALL: That's correct.

6           BENNY WAMPLER: If you moved the...if you moved  
7 the 505256 west toward P-157---?

8           DON HALL: East, you mean?

9           BENNY WAMPLER: I mean east. Did I say west? I  
10 mean east. There's no location there suitable for a well  
11 site?

12          DON HALL: Well, you already asked me and I haven't  
13 been on the ground, so I can't say for sure, but if we moved  
14 it to the west, we might be able to find a spot, but if  
15 you'll notice---.

16          JIM KISER: You mean east.

17          DON HALL: That's east, I'm sorry. If we moved it  
18 to the east, there possibly could be a spot, but if you  
19 notice, in the northeast of 5256, you see the word gas,  
20 that's an old Clinchfield nonproductive gas well that has  
21 been there for years and we were just also trying to stay  
22 away from it some distance.

23          BENNY WAMPLER: Questions from members of the  
24

1 Board?

2 MAX LEWIS: Does this change any royalty payments?

3 DON HALL: No.

4 JIM KISER: 100% of this unit and the surrounding  
5 units is Pine Mountain Oil and Gas.

6 BENNY WAMPLER: Mr. Mitchell.

7 KEN MITCHELL: Sure. If the Board approves this  
8 exception and everything that's been brought, with a few  
9 exceptions, today have been exceptions and I hope Jim doesn't  
10 think I'm anti-Jim. I'm anti-exceptions. If the Board  
11 approves this today, this V-505256, what's to keep your  
12 company from coming in six months or a year from now, maybe  
13 when it's not so fresh on our minds, and planting another  
14 well directly between P-30, P-18 and P-444, the three on the  
15 left?

16 DON HALL: Economics.

17 KEN MITCHELL: But economics is what's driving this  
18 one. I mean, you're saying it's economics because if you  
19 don't get the exception, you won't be able to drill the well.

20 DON HALL: Right.

21 KEN MITCHELL: Which means you won't be able to  
22 extract.

23 DON HALL: We don't...we wouldn't want...we don't  
24

1 want to drill any more wells than we have to. We would not  
2 come back and drill another one, you know, in between those.  
3 But, this...if we don't drill this one, this leaves a pretty  
4 good void area in here where nothing has been drilled.

5 JIM KISER: These wells are probably what, 275,000?

6 DON HALL: Yeah.

7 JIM KISER: So, I mean, you don't want to drill  
8 anymore than you have to, but at the same time, you do want  
9 to, and let's flip this thing. You need to...I think you  
10 need to be looking at it from the standpoint of the royalty  
11 interest owners, you know, and their correlative rights. You  
12 need to look at it from the standpoint of the economy of the  
13 State, etc. I mean, the conservation means the efficient  
14 recovery of the oil and gas, not conservative. And if we  
15 don't produce this gas, then the impact is upon the royalty  
16 owner who will not...that gas will never be produced because  
17 these wells only produce from a certain distance each. So  
18 you're going to have this entire...if we assume under  
19 statewide spacing, which we do, that they produce on a 12/50  
20 radius, if you draw those circles in there, you're going to  
21 have an entire area of unproduced, uncompensated gas that  
22 impacts most of all, obviously, the royalty owner, but  
23 secondly, the State, in the form that you don't get the

24

--

1 severance tax that you create jobs through these wells, etc.  
2 etc. So, I mean, we...how can I put this? An operator  
3 doesn't want to drill any more wells than they have to, so  
4 it's a measure of last resort when you come to the Board to  
5 seek an exception, not a measure or a mechanism of first  
6 resort.

7 KEN MITCHELL: No offense to you or your company,  
8 but I think you had four last resorts today, you know.

9 JIM KISER: Well, and you know the reason nobody  
10 else...I'm going to have a few more, too, for another company  
11 in just a minute, but you only need to seek location  
12 exceptions for conventional wells. You don't see the other  
13 big operators in the state seeking them because for CBM wells  
14 you can do it through the permitting process and it happens  
15 at least as often as it does on the conventional well side.  
16 So you need to keep that in mind.

17 KEN MITCHELL: But now let me ask you another  
18 question. What's to keep your company a year from now from  
19 coming into this north quadrant here and popping one right  
20 there?

21 JIM KISER: Internal economics of the Board.

22 KEN MITCHELL: I know you keep telling me you don't  
23 want to drill any more wells than you have to, but I mean,

24

--



1 drilling a well is part of the cost of bringing out coalbed  
2 methane. I mean, you can't get it without drilling a well.  
3 So if you pay a quarter of a million to drill the well, I  
4 mean I understand that. But I'm saying, you know, it just  
5 seems like you're trying to squeeze ten pounds of manure into  
6 a five pound bag. Maybe I'm missing the whole concept here.

7           DON HALL: Another thing that keeps us from doing  
8 it is the coal owner. The 2500 foot spacing was basically  
9 established by the coal owner. They don't want any more  
10 wells drilled in their coal than is necessary. That's why we  
11 came up with the 2500 foot spacing. That doesn't necessarily  
12 mean that's how a well produces. But if we determine we want  
13 to drill one less than 2500 feet, the coal owner can say no  
14 and we can't. So as long as the coal owner is agreeable to  
15 it, then these location exceptions can be granted. But you  
16 know, they have an absolute veto to keep you from drilling  
17 any greater...any less than the 2500 feet.

18           BENNY WAMPLER: You're at 2270 feet here, right?

19           DON HALL: Right.

20           BENNY WAMPLER: So you're within 230 foot of the so  
21 called legal location without having to come before the  
22 Board.

23           DON HALL: Yeah.

24

--

1           JIM KISER: And the coal owner is not here  
2 objecting. The royalty owner is not here objecting.

3           DON HALL: If you take that blue well out of that  
4 area there, there's a large area there that nothing will be  
5 produced.

6           JIM KISER: And that doesn't serve anybody.

7           KEN MITCHELL: But on the same token, even if you  
8 drill it just northeast...just northeast of the well that  
9 you're asking...if you go northeast, there's a huge area  
10 there where there's no well, or at least it doesn't show on  
11 this plat.

12           DON HALL: We may go northeast of that and drill  
13 another well.

14           KEN MITCHELL: And that would be good. I mean,  
15 2500 foot and you wouldn't be here asking for an exception.  
16 You'd just be asking---.

17           DON HALL: Believe me, I don't want to be here  
18 asking for a location exception. These are last resort.

19           KEN MITCHELL: In my term on the Board, this is the  
20 most exceptions, and obviously, this is two meetings, you  
21 know, combined into one, but it's still the most exceptions  
22 I've ever seen. Usually we have one at a maximum and many  
23 meetings we have none. It just threw a red flag at me when I  
24

1 saw exception, exception.

2           DON HALL: Two of these are last month and two are  
3 this month.

4           BENNY WAMPLER: I guess a comfort level, not trying  
5 to sway you at all, but a comfort level I have, and I think  
6 the Board can have, is that there's no correlative rights  
7 issues here. There's no other parties being impacted.  
8 They're not...at least all the information before us as a  
9 Board, they're not moving the well to get away from somebody  
10 or to avoid something as far as a payment. So, from that  
11 standpoint, I mean I think there's some comfort in that. If  
12 they're moving...if you have a contiguous mineral owner and  
13 they're moving away from it and asking for that when there's  
14 other locations, I think then you have my antenna go up  
15 more...higher for those kinds of things. Not to diminish  
16 your concern at all, but just to say there is some comfort  
17 here from the standpoint it's one mineral owner and, you  
18 know, no correlative rights issues.

19           MAX LEWIS: It may not be on this well, but if they  
20 go to drill another one over here, it may be. They may be  
21 some mineral discrepancies.

22           JIM KISER: Well, this is on a Big Pine Mountain  
23 lease, but I understand what you're saying.

24

--

1           BENNY WAMPLER: But the way the testimony is, that  
2 all of these were on Pine Mountain leases, so that's why I  
3 made the statement I did in this particular case. Is that  
4 correct?

5           JIM KISER: That's correct. And I think Mr. Hall  
6 made a good point that everybody needs to remember going  
7 forward, and that's that basically the 2500 foot spacing was  
8 put into place at the request of the coal owners, coal  
9 operators and coal companies to "protect their coal". If you  
10 didn't have that, oil and gas operator's spacing would be  
11 dictated by internal economics. So---.

12           DON HALL: Prior to '91 when that took effect,  
13 there wasn't any spacing. You could drill them as close as  
14 you wanted to.

15           KEN MITCHELL: But...and I accept that, but I think  
16 as long as the 2500 foot is there, I think we're still stuck  
17 with it until it's changed. You know, if it's changed  
18 legally or whatever, that's wonderful. I think one of the  
19 ones today, and you may correct me on my numbers, one of the  
20 ones today...this is 200 foot and that is not as....200 foot  
21 on 2500 foot scope is not that terrible. I think one was 671  
22 foot, if my memory serves me right. I'll go back and check  
23 it while we're doing this, but like I say, I'm just concerned  
24

1 seeing so many of them. And no offense to him, but you're  
2 presenting all of them.

3 JIM KISER: Once again, I'll remind you of the fact  
4 that the only reason you don't see the other operator...CBM  
5 operators presenting them is because they're done through the  
6 permitting process and you don't have to come to the Board to  
7 do this.

8 DON HALL: The pooling we did just before this---.

9 JIM KISER: Under the field rules.

10 DON HALL: The pooling we did before this was a  
11 location exception that was outside the interior window, but  
12 it was done through the permit process.

13 BENNY WAMPLER: Any other questions?

14 CLYDE KING: Move we approve.

15 BENNY WAMPLER: Motion to approve.

16 DENNIS GARBIS: Second.

17 BENNY WAMPLER: Second. Any further discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor, signify by saying  
20 yes.

21 (All members signify by saying yes with the  
22 exception of Max Lewis.)

23 BENNY WAMPLER: Opposed, say no.

24

--

1           MAX LEWIS: No.

2           BENNY WAMPLER: You have approval.

3           KEN MITCHELL: Jim, item 12 was 670 feet. So, just  
4 for...item 12 on our agenda here.

5           BENNY WAMPLER: Right after our five minute break,  
6 I'm going to call Evan Energy Company, L.C.

7           (Off record.)

8           BENNY WAMPLER: The next item for agenda is  
9 petition from Evan Energy Company, L.C. for pooling of  
10 conventional gas methane unit identified as well numbers 740.  
11 This is VGOB-02-08/20-1061. We'd ask the parties that wish  
12 to address the Board in this matter to come forward at this  
13 time.

14           JIM KISER: Mr. Chairman and members of the Board,  
15 Jim Kiser on behalf of Evan Energy Company. I'm handing out  
16 some witness resumes because my two witnesses in these four  
17 matters, these four force poolings, which I would like to  
18 consolidate, have not testified before the Board previously.

19           BENNY WAMPLER: I'll go ahead and let you swear  
20 them in.

21           (Witnesses are duly sworn.)

22           (Jim Kiser distributes resumes.)

23           (Off record.)

24

1           BENNY WAMPLER: The record will show there are no  
2 others. You may proceed.

3           JIM KISER: Mr. Chairman and members of the Board,  
4 what we'd like to do here is take items 28, 29, 30 and 31 and  
5 combine or consolidate them because what we're doing is  
6 seeking pooling orders on four different wells where the only  
7 party or respondent that we're pooling is an unknown entity  
8 in all four wells.

9           BENNY WAMPLER: Okay, I'll...without objection,  
10 I'll go ahead and call those other three. I also have a  
11 petition for Evan Energy Company, L.C. for pooling of a  
12 conventional gas methane unit identified as well number 741,  
13 docket number VGOB-02-08/20-1062; and well number 754, docket  
14 number VGOB-02-08/20-1063; and well number 755, docket number  
15 VGOB-02-08/20-1064. You may proceed.

16           JIM KISER: Okay, have both my witnesses been  
17 sworn?

18           BENNY WAMPLER: They have.

19

20                           DON PATTON

21 having been duly sworn, was examined and testified as  
22 follows:

23                           DIRECT EXAMINATION

24

--

1 QUESTIONS BY MR. KISER:

2 Q. All right. Mr. Patton, we'll start with  
3 you. If you could state your name for the Board, who you're  
4 employed by and in what capacity?

5 A. My name is Don Patton. I'm employed by Evan  
6 Energy Company, L.C. as Vice President of the land  
7 department.

8 Q. Okay, Mr. Patton, you have not had  
9 previously had the privilege of testifying before the  
10 Virginia Gas and Oil Board, is that correct?

11 A. That is correct.

12 Q. Being that you have not, we have distributed  
13 as an exhibit to this hearing your resume to all the Board  
14 members. If you would, please, go through and detail your  
15 educational background and your work history at this time.

16 A. Okay. Basically, a B.S. in Business  
17 Administration from Lincoln Memorial University. I have an  
18 M.B.A. from the University of St. Thomas in Houston, Texas.  
19 I have twenty-five years of experience in the oil and gas  
20 industry starting in 1977 with Weaver Oil and Gas Company,  
21 and basically have served both in the Gulf Coast and the  
22 Appalachian Basin during that period of time. I am a  
23 certified professional landman. A member of the

24

--



1 International Right of Way Association. That's pretty much  
2 it right there.

3 JIM KISER: Now, Mr. Chairman, with that being  
4 said, we would submit Mr. Patton as an expert in land matters  
5 for the purposes of the testimony for these four force  
6 pooling hearings.

7 BENNY WAMPLER: Any questions from members of the  
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Okay, you may proceed.

11 JIM KISER: Okay. Everybody bear with me. This  
12 might be the most I've ever done at one time. I know Swartz  
13 is used to it. I'm not.

14 Q. Do your responsibilities include the land  
15 involved here and in the surrounding area, that would include  
16 wells 740, 741, 754 and 755?

17 A. Yes, that is correct.

18 Q. And you're familiar with the applications  
19 that we filed seeking the establishment of a unit and pooling  
20 of any unleased interest for all four wells and all those  
21 applications were dated July the 19th, 2002?

22 A. I am familiar with them. Yes, sir.

23 Q. Okay. Now, does Evan Energy Company own  
24

1 drilling rights in all the units involved here?

2 A. Yes, they do.

3 Q. And do all four of the applications have  
4 included as Exhibit A, a plat of the four wells and does that  
5 plat depict all acreage within 2500 feet, that being a 1250  
6 foot radius of the proposed wells?

7 A. Yes, it does.

8 JIM KISER: Now, we're going to get into the meat  
9 of this thing. What we're actually doing here, if you've had  
10 a chance to review the applications, we've got...some of the  
11 unit...most of the units have Dulcimer as a lessor and then  
12 some of them have some other individual adverse oil and gas  
13 tracts that we do have voluntary leases on. The only  
14 interest that we're pooling in any of these four units is the  
15 unknown interest of Southwest Virginia Mineral Company.  
16 Now---.

17 DON PATTON: Land.

18 JIM KISER: Mineral Land Company.

19 Q. At this point, Mr. Patton, if you would  
20 please go through in painstaking detail for the Board what  
21 efforts we made to locate some remnants of that entity?

22 A. Sure. Basically, what we did, of course we  
23 examined title to every tract in all the units. What we did

24

--

1 find was a common factor in each of those. A portion of each  
2 of those units, which, of course, particular tracts effect  
3 each unit, and that was Southwest Virginia Mineral Land  
4 Company. Southwest Virginia Mineral Land Company acquired  
5 the mineral title to these tracts effected in the 1880s.

6 Q. When you say "mineral title" do you mean  
7 coal, oil and gas?

8 A. Coal, oil and gas. All mineral and the  
9 surface excepted. In 1890, they sold the coal off the tracts  
10 retaining all other minerals. At that point in time, we have  
11 basically examined titled through present date, nothing else  
12 was ever done with oil, gas or other minerals affecting those  
13 tracts. Basically then what we did, we contacted---

14 Q. Wait a minute. Now, what was the last  
15 conveyance that you could find in any of indexes in Lee  
16 County---

17 A. In 18---

18 Q. ---out of or into Southwest Virginia Mineral  
19 Land Company?

20 A. 1890.

21 Q. Okay.

22 A. And that's when they sold the coal. Then at  
23 that point, basically we looked at who signed the document

24

--

1 for Southwest Virginia Mineral Land Company hoping to  
2 determine maybe that they acquired title in their own name.  
3 A gentleman named Burton Myers, Jr. There was never anything  
4 else that he did with the property either.

5           We contacted the Secretary of State's office, the  
6 Corporation Commission, and basically inquired of Southwest  
7 Virginia Mineral Land Company. They said that the last  
8 report that they had filed was in 1908 and then the only  
9 other correspondence was just a note of inquiry in 1911.  
10 They have nothing further. They have no shareholders list.  
11 They had nothing.

12           So, basically at that point, we checked the records  
13 for Burton Myers, Jr. in the municipality of Nor...the City of  
14 Norfolk and also up around the Richmond area.

15           Q.       Let me stop you a minute. Why did you  
16 check...do you want me to get you some water?

17           A.       Sure.

18           Q.       Why did you check Norfolk? What reason did  
19 you have to do that?

20           A.       Basically that was their last known address.  
21 The Southwest Virginia Mineral Land Company's last known  
22 address was 721 (inaudible) Street, Norfolk.

23           Q.       Okay. So, you sent a land person to...or a  
24

1 representative from your company to Norfolk to check?

2 A. That is correct.

3 Q. They're actually a municipality?

4 A. Norfolk is a municipality.

5 Q. And they have...so you had a separate set of

6 records that you checked there---?

7 A. Right.

8 Q. ---running both Southwest Virginia Mineral

9 Land Company and---?

10 A. And Burton Myers, Jr.

11 Q. ---these Burton Myers, Jr.?

12 A. Right.

13 Q. And, again, you were not able to find any

14 evidence of any additional activity involving these

15 particular tracts?

16 A. That is correct.

17 Q. Okay. Go ahead. I'm sorry.

18 A. Okay. And basically that was it. I mean,

19 we expired our efforts in and around the Richmond area and

20 also the municipality of Norfolk.

21 Q. So, you did...you also, based upon the fact

22 that the proximity and the fact that Richmond is the State

23 Capital, you also did have somebody go and check the records

24

1 in Richmond for maybe the corporate records for dissolution  
2 of the entity or some sort of shareholder list or go ahead  
3 and grantor the name Southwest Mineral Land Company and---?

4 A. Absolutely.

5 Q. ---Burton Myers, is that correct?

6 A. That is correct. Our chairman of the Board  
7 Greg Messy, himself, went up and did that.

8 Q. So, there's just...this is just one of those  
9 odd situation where the oil and gas estate back in a entity  
10 that existed in the early 1900's and the coal and surface  
11 went forward to one of your lessors in this unit, who is  
12 Dulcimer Land Company?

13 A. That is correct.

14 Q. Okay.

15 JIM KISER: If there's any questions on this, it  
16 might be a good time to do it now.

17 BENNY WAMPLER: Questions from members of the  
18 Board?

19 MASON BRENT: Did you look at tax records or  
20 anything like that?

21 DON PATTON: No tax record...no tax entity on a  
22 non-producing oil and gas. That is correct.

23 MASON BRENT: Okay.

24

--

1                   BENNY WAMPLER: You may proceed.

2                   Q.       Okay. Let's now go through on a well by  
3 well basis and state the percentage of the unit that's under  
4 lease to Evan Energy Company and the percentage of the unit  
5 that is unleased and exist in the unknown entity...in the  
6 unknown owner of Southwest Virginia Mineral Land Company?

7                   A.       Okay.

8                   Q.       Let's start with...let go in sort of  
9 numerical order, 740, 741, 754 and 755.

10                  A.       Okay. In well unit number 740, we currently  
11 have under lease 45.13% and Southwest Virginia, it comprises  
12 54.87% of that unit.

13                  Well unit number 741, we currently have under lease  
14 99.38%. Southwest Virginia Mineral Land Company comprises  
15 0.62%.

16                  Well unit number 754, we currently have under lease  
17 78.85% and Southwest Virginia Mineral Land Company comprises  
18 21.15%.

19                  Well unit number 755, we currently have under lease  
20 65.31%. Southwest Virginia Mineral Land Company comprises  
21 34.69%.

22                  Q.       Okay, now in addition...to kind of go back  
23 to the due diligence, in addition to all these steps that you  
24

1 took as a company when we filed these applications, did we  
2 publish as required under the statute and regulations in  
3 Virginia?

4 A. That is correct. It was published.

5 Q. And did that publication notice elicit any  
6 sort of response from anybody?

7 A. None whatsoever.

8 BENNY WAMPLER: Let me ask you a question on---.

9 DON PATTON: Yes, sir.

10 BENNY WAMPLER: ---755, Exhibit B. You've got  
11 percentage of unit leased 37.6---.

12 JIM KISER: Yeah, that's a mistake. That needs to  
13 corrected. That should be---.

14 DON PATTON: That's a typo. It should be 65.31%.

15 JIM KISER: Yeah, lease---.

16 BENNY WAMPLER: 65.3---.

17 DON PATTON: 31.

18 JIM KISER: Lease should be 65.31 and unleased  
19 should 34.69. I appreciate you pointing that out. I've got  
20 that marked here.

21 BENNY WAMPLER: Go ahead.

22 Q. So, all the unleased parties, that being the  
23 unknown Southwest Virginia Mineral Land Company, they're set  
24



1 out in Exhibit B, right?

2 A. Correct.

3 Q. Are you requesting this Board to force pool  
4 all unleased interest as listed at Exhibit B?

5 A. Yes.

6 Q. Now, obviously if this entity remains  
7 unlocateable and unknown, this interest will go into escrow.  
8 So, we need to establish a fair market value for the  
9 drilling rights in the unit here and in the surrounding area.  
10 Are you familiar with that?

11 A. I am.

12 Q. Could you advise the Board as to what those  
13 are?

14 A. Yes. We pay a one dollar bonus per acre, a  
15 one dollar per acre rentals for a five year term and one-  
16 eighth royalty.

17 Q. And did you gain this familiarity by  
18 acquiring oil and gas leases and other agreements involving  
19 the transfer of drilling rights in the unit involved here and  
20 in the surrounding area?

21 A. Yes, we did.

22 Q. In your opinion, do these terms you have  
23 testified to represent the fair market value of and the fair

24

--

1 and reasonable compensation to be paid for drilling rights  
2 within this unit?

3 A. Yes.

4 Q. Now, should someone come forward under the  
5 auspices of the unknown company, would they be under the  
6 order be given the election options of one, participation;  
7 two; a cash bonus of a \$1 per net mineral acre and a one-  
8 eighth of eight-eighths royalty; or three, to be carried  
9 either with a 300% penalty or a 200% penalty, is that  
10 correct?

11 A. That is correct, yes.

12 Q. And, obviously, the Board needs to establish  
13 an escrow account into which this unknown interest can be  
14 paid?

15 A. That is correct.

16 Q. Okay. And who should be named the operator  
17 under these forcepooling orders should they be granted?

18 A. Evan Energy Company.

19 Q. Evan Energy Company, L.C.?

20 A. L.C., yes.

21 JIM KISER: That's all I have of this witness at  
22 this time, Mr. Chairman.

23 BENNY WAMPLER: I have just one other question.

24

--

1           DON PATTON: Yes, sir.

2           BENNY WAMPLER: On your due diligence, did you talk  
3 to Murphy Land and Dulcimer and these other folks?

4           DON PATTON: Yes, sir.

5           BENNY WAMPLER: Had they encountered this before  
6 themselves?

7           DON PATTON: They encountered it, yes, sir, prior  
8 to our---.

9           BENNY WAMPLER: And they haven't been able to get  
10 any leads---.

11          DON PATTON: No, sir. Not at all. In fact,  
12 they're unable to deal with that---.

13          BENNY WAMPLER: Well, I would think that...that's  
14 what I wanted to explore---.

15          DON PATTON: ---because we have a lease from  
16 them---.

17          BENNY WAMPLER: ---because I'm sure---.

18          DON PATTON: Right.

19          BENNY WAMPLER: ---they would have encountered the  
20 same thing.

21          DON PATTON: Absolutely. They---.

22          JIM KISER: Well, they actually took some  
23 extraordinary steps that we probably don't want to go into  
24

1 here. But they couldn't come up with anything either.

2 BENNY WAMPLER: Questions from members of the Board  
3 of this witness?

4 (No audible response.)

5 BENNY WAMPLER: Call your next witness.

6

7 GREG CHREECH

8 having been duly sworn, was examined and testified as  
9 follows:

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. KISER:

12 Q. Okay, Mr. Chreech.

13 A. Greg Chreech, Evan Energy Company, L.C.  
14 Senior Engineering Technician. Education: I have a B.S.  
15 degree in Business Administration from Tusculm College,  
16 Greenville, Tennessee. Twenty years of experience in the oil  
17 and gas industry, specifically the last ten years in the  
18 engineering department where I've prepare AFEs, permitting,  
19 production tracking, production analysis.

20 JIM KISER: Mr. Chairman, again, we would submit  
21 Mr. Chreech as a expert witness in the area of operations and  
22 cost and ask that his qualifications be accepted at this  
23 time.

24

--

1           BENNY WAMPLER: Any questions from members of the  
2 Board?

3           (No audible response.)

4           BENNY WAMPLER: Okay, you may proceed.

5           Q.       Do your responsibilities include the land  
6 involved here and in the surrounding area?

7           A.       Yes, it does.

8           Q.       And are you familiar with the proposed  
9 exploration and development of these four units?

10          A.       Yes.

11          Q.       Okay, now, once again we're going to take  
12 them in numerical order under this question. That will be  
13 740, 741, 754 and 755. If you could please state for the  
14 Board the total depth of each of those wells.

15          A.       740, total depth would be 5850; 741, 5660;  
16 754, 5775; and 755, 5850 feet.

17          JIM KISER: Okay. Did you get all that, Sandy?

18          SANDRA RIGGS: Uh-huh.

19          Q.       Will this be sufficient to penetrate and  
20 test the common sources of supply in the subject formation?

21          A.       Yes, it will.

22          Q.       And are you requesting that the force  
23 pooling of conventional gas reserves to include not only the  
24

1 designated formations, but any other formations excluding  
2 coal formations which may be between those formations  
3 designated from the surface to the total depth drilled?

4 A. Yes.

5 Q. Okay, now once again...now, I think we've  
6 got some commonality. We...the estimated reserves of each of  
7 these four units, we're using the estimate of 422 million  
8 cubic feet, is that correct?

9 A. That's correct.

10 Q. Okay. Now, are you familiar with the...was  
11 an AFE filed as Exhibit C to all four of these applications?

12 A. Yes, I am.

13 Q. Have you reviewed it and are you familiar  
14 with it?

15 A. Yes, I am.

16 Q. Was the AFE prepared by an engineering  
17 department that's knowledgeable in the preparation of AFEs  
18 and knowledgeable in regard to well costs in this area?

19 A. Yes, it was.

20 Q. In your opinion, do these AFEs represent a  
21 reasonable estimate of the well cost for each of these wells  
22 under the plan of development?

23 A. Yes.

24

--

1           Q.       Okay, now, once again...now, in this case,  
2 we're going to take each of the four wells and we're going to  
3 lay out both the dry hole cost and the completed well cost  
4 for each well.

5           A.       Okay.

6           Q.       Start with 740.

7           A.       Well 740, the dry hole cost \$200,980; the  
8 total well cost \$352,155. Well 741, dry hole cost \$190,146;  
9 the total completed cost \$324,821. Well 754, the dry hole  
10 cost \$194,280; total completed cost \$334,755. Well 755, dry  
11 hole cost \$205,130; total well cost \$339,080.

12          Q.       Okay, now as the Board may have noticed and  
13 the Board members, you all have done...this is the first  
14 force poolings you've done in Virginia and you all have done  
15 something a little bit different on your AFEs in these wells.  
16 This is a new development. You've got...you don't have a  
17 gather...an existing gathering system out there. You've laid  
18 out AFEs for both the actual well and for the gathering line  
19 that needs to be installed and that would put these---.

20          A.       Correct.

21          Q.       ---wells under production. And what these  
22 completed well costs represent is the addition of both of  
23 those AFEs, is that correct?

24

--

1           A.       That's correct.

2           BENNY WAMPLER: On the AFEs, a couple of things.  
3 One, on 7/15/2000, it shows the date on it. Is that the date  
4 they were prepared?

5           GREG CHREECH: That's probably the date they were  
6 printed out.

7           BENNY WAMPLER: Printed out.

8           GREG CHREECH: They were all printed out the same  
9 time.

10          BENNY WAMPLER: We'll probably...we need you to  
11 sign these, Mr. Chreech, as the main file copy rather than  
12 just have your initials on it. We need signed copies of  
13 AFEs. So, if you'll do that at your convenience, or submit  
14 signed copies, whatever works best for you.

15          JIM KISER: That's my fault. I thought they were  
16 signed.

17          Q.       Now, Mr. Chreech, do these costs that you've  
18 testified to anticipate a multiple completion?

19          A.       Yes, it does.

20          Q.       And does your AFE include a reasonable  
21 charge for supervision?

22          A.       Yes.

23          Q.       And in your professional opinion, would the  
24

--



1 granting of these applications be in the best interest of  
2 conversation, the prevention of waste and the protection of  
3 correlative rights?

4 A. Yes, it would.

5 JIM KISER: Nothing further at this time of this  
6 witness, Mr. Chairman.

7 BENNY WAMPLER: Questions from members of the Board  
8 of this witness?

9 (No audible response.)

10 BENNY WAMPLER: Do you have anything further?

11 JIM KISER: We'd ask that the four applications be  
12 approved as submitted with the caveat that we need to submit  
13 signed AFEs.

14 KEN MITCHELL: Mr. Chairman, I make a motion for  
15 approval.

16 MAX LEWIS: I second.

17 BENNY WAMPLER: Motion and second. Any further  
18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying  
21 yes.

22 (All members signify yes.)

23 BENNY WAMPLER: Opposed, say no.

24

--

1 (No audible response.)

2 BENNY WAMPLER: You have approval. Thank you.

3 JIM KISER: Thank you.

4 BENNY WAMPLER: The next item on the agenda is a

5 petition from Columbia Natural Resources, Incorporated for a

6 well location exception for proposed conventional gas well

7 number 9549, docket number VGOB-02-08/20-1065. We'd ask the

8 parties that wish to address the Board in this matter to come

9 forward at this time.

10 MASON BRENT: Mr. Chairman, if I may, once

11 again---.

12 BENNY WAMPLER: Mr. Brent?

13 MASON BRENT: ---I must recuse myself. Not only

14 this item but in anticipation of the next two, 33 and 34.

15 BENNY WAMPLER: Okay.

16 MASON BRENT: I recuse myself from those items---.

17 BENNY WAMPLER: Okay, so noted for the record.

18 MASON BRENT: ---with a great deal of regret.

19 JIM KISER: Do you have the exhibit ready to go

20 out?

21 ROBERT KEANON: Yeah. I apologize to the Board as

22 far as the exhibits are concerned. When I was asked for

23 exhibits, I just kind of...I had something I thought we would

24

1 kind of review. So, I don't have really enough copies.

2 BENNY WAMPLER: If you'd start one on this end and  
3 one on that end and we'll work with it. How is that?

4 ROBERT KEANON: Actually, what I do have, when I  
5 saw a previous set, these are the same things. I just went  
6 downstairs and xeroxed them off. It's just you're not going  
7 to have the nice pink color. It's all the same (inaudible).  
8 I thought you'd probably need one just for your records  
9 anyway.

10 BENNY WAMPLER: Okay.

11 (Mr. Keanon distributes exhibits.)

12 ROBERT KEANON: Yeah, just so that everybody could  
13 kind have one I just went downstairs and, like I said, just  
14 kind of xeroxed them right off. Now, the scale is just going  
15 to be as good as whatever the copy quality is.

16 BENNY WAMPLER: Except for the main one, right?

17 ROBERT KEANON: Except for the main one. And it's  
18 only as good as the mapping quality.

19 BENNY WAMPLER: Okay, the record will show there  
20 are no others. You may proceed.

21 JIM KISER: Okay. Before we get started, Mr.  
22 Chairman,---.

23 BENNY WAMPLER: Swear your witness.

24

--

1           JIM KISER: ---if we could, I'd like to again  
2 consolidate...I'd like to...if you'll call item number 33.  
3 If it's okay with the Board, I would like to consolidate 32  
4 and 33 because both of these wells are on the same lease and  
5 same tract and it's the same reasons we're seeking the  
6 exception. So, I think it will make it easier---.  
7           BENNY WAMPLER: Okay, I'll go ahead and---.  
8           JIM KISER: ---if it would be done together also.  
9           BENNY WAMPLER: Columbia Natural Resources,  
10 Incorporated is petitioning for a well location exception  
11 from proposed conventional gas well number 9551, docket  
12 number VGOB-02-08/20-1066. We'd ask the parties wishing to  
13 address the Board in this matter to come forward as well.  
14           JIM KISER: Here's another one if it will help. I  
15 don't really need it.  
16           ROBERT KEANON: I tell you what, they can have both  
17 of these because I can work off the xeroxes as well.  
18           BENNY WAMPLER: If you will go ahead and have your  
19 witness sworn.  
20           JIM KISER: If you'll swear Mr. Keanon in.  
21           (Witness is duly sworn.)  
22           JIM KISER: Okay, are we ready?  
23           BENNY WAMPLER: You may proceed. No others.  
24

1

2

ROBERT KEANON

3 having been duly sworn, was examined and testified as  
4 follows:

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7

Q. Mr. Keanon, if you'd state your name for the  
8 Board, who you're employed by and in what capacity?

9

A. Robert Keanon. I'm employed by Columbia  
10 Natural Resources as a reservoir engineer.

11

Q. And you have testified before the Virginia  
12 Gas and Oil Board on several recent occasions over the last  
13 four or five months and your credentials and qualifications  
14 as an expert witness in these matters have been previously  
15 accepted, is that correct?

16

A. Yes.

17

Q. And your responsibilities do include in the  
18 land involved here and in the surrounding area for both these  
19 wells, that being 94...9549 and 9551?

20

A. That is correct. In addition, I cover  
21 Southeastern Kentucky and Southwestern Virginia.

22

Q. And you are familiar with the applications  
23 that we've filed seeking location exceptions for these two  
24

--

1 wells?

2 A. Yes.

3 Q. And have all interested parties been  
4 notified for both of these applications as required by  
5 Section 4(b) of the Virginia of the Virginia Gas and Oil  
6 Board Regulations?

7 A. To my knowledge, yes.

8 Q. Now, could you indicate to the Board the  
9 ownership of the oil and gas underlying both of these units?

10 A. Pine Mountain Oil and Gas is the sole  
11 royalty holder underneath the subject lease, a 100% royalty.

12 Q. And does CNR have the right to operate all  
13 of the reciprocal wells, that being the wells that we're  
14 seeking these exceptions from?

15 A. Yes.

16 Q. Are there any correlative rights issues?

17 A. No.

18 Q. Could you explain that?

19 A. All of the wells in question in the  
20 immediate area and for those of you with the map and even the  
21 handout, I think the see the shaded areas. We're just  
22 dealing with a single royalty holder, a single operator, that  
23 being Columbia Natural Resources. There was no disaffected  
24

--

1 third party.

2 Q. So, everything that you see in the, we'll  
3 call pink on the color, exhibit is Pine Mountain acreage?  
4 It's all under one lease?

5 A. That is correct.

6 Q. Okay, now kind of explain how we got to  
7 where we are? This is, for a lack of a better term, I call  
8 these pure statutory location exceptions.

9 A. Well, many of these wells were drilled in  
10 the 1950s prior to the statutory spacing regulations that  
11 occurred. At the time, large open (inaudible) were  
12 encountered in the big lime formation. The wells were  
13 stopped at that point. Subsequently in the following years,  
14 additional wells were drilled, a grid Devonian Shale. Now,  
15 we just kind of want to go back in and do an in field type  
16 process to where we want to deepen the existing well bore to  
17 develop the reserves in that specific adjacent area.

18 Q. So, these are actually existing wells,  
19 they're going to be drilled deeper into the same formations  
20 and therefore, we're required because we're going to be  
21 producing wells from the same formations that are within 2500  
22 feet of each other to get a location exception?

23 A. That's correct.

24

--

1           Q.       And our primary reasons would be: One, to  
2 minimize surface damage?  
3           A.       Correct.  
4           Q.       Two, the efficient recovery of the reserves?  
5           A.       Correct.  
6           Q.       Three, no correlative rights impact or  
7 issues in that we have once again just one royalty owner who  
8 is knowledgeable about these wells being deep and has not  
9 voiced any objections and, in fact, is glad to see you doing  
10 it?  
11          A.       Correct.  
12          Q.       Now, in the event this location exception is  
13 not granted, would you project the estimated lost of reserves  
14 that result in waste?  
15          A.       Well, we project that we will recover 250  
16 million cubic feet from the specific wells that are targeted.  
17          Q.       As far as what would actually be lost, it  
18 would be a percentage of that just due to the ongoing  
19 depletion effects from the offsetting wells which may be plus  
20 or minus 2,000 feet away?  
21          A.       Okay.  
22          Q.       And what is the total depth...proposed total  
23 depth first for 9549?  
24



1           A.       5904 or 5,904 feet.

2           Q.       And the proposed depth for 9551?

3           A.       5,374 feet. And that brings up an

4 interesting point. Kick me if I'm going too far. I really

5 think that there's a mistake or an error. I've asked our

6 geology department to investigate the depth for 9549. I

7 believe that Jim supplied you with the surface typos, which

8 give the elevations for the particular wells. There's really

9 only a 20 foot difference in the elevation between those two

10 wells. And also the (inaudible) are probably within 30 feet.

11 I really think that on 9549, looking at all the information,

12 there should be a typo there that it's 5404. I've asked for

13 the geology department to review this. I haven't got a

14 response back from them. That's why I have nothing official

15 really to give you at this point. I just want make it to

16 your understanding that there's a question there.

17           BENNY WAMPLER: When you do, you'll supplement the

18 file for that?

19           ROBERT KEANON: Yes, sir.

20           Q.       Now, are we requesting that these

21 applications for location exceptions cover conventional gas

22 reserves to include the designated formations from the

23 surface to the total depth drilled?

24

1           A.       Yes.

2           Q.       And in your professional opinion, would the  
3 granting of these location exceptions be in the best interest  
4 of preventing waste, protecting correlative rights and  
5 maximizing the recovery of the gas reserves that underlie the  
6 units for 9549 and 9551?

7           A.       Yes.

8           JIM KISER: Nothing further of this witness at this  
9 time, Mr. Chairman.

10          BENNY WAMPLER: Questions from members of the  
11 Board?

12          KEN MITCHELL: One question, Mr. Chairman.

13          BENNY WAMPLER: Mr. Mitchell?

14          KEN MITCHELL: Is there any reclamation work going  
15 on? You said a lot of these wells were drilled back in  
16 1950s. So, I would have to presume after maybe forty-five to  
17 fifty-two years of inactivity it would be rusty units,  
18 rusty...you know, are you doing anything to clean it up and  
19 make it look better?

20          ROBERT KEANON: What...we tried to maintain a  
21 certain degree, I guess, to keep everything...I mean, as far  
22 as our O & M maintenance, we try to keep everything above  
23 board. Everything is currently operational and painted. I  
24

--

1 mean, whenever we go in it will be with a service rig. So,  
2 we will have a reclamation and a site plan because we will  
3 have to excavate some earth at the surface just in order to  
4 get our rig set up. However, I mean, there's the remnants of  
5 an existing location there. We will be using a service rig  
6 which is quite a bit smaller, I guess, than your standard  
7 drilling rig type of operation. So, that will minimize some  
8 of the impact. But, I mean, there will be a rec plan, a site  
9 plan, whatever the standard, I guess, reclamation plans are  
10 that go along with drilling or work over activities.

11 BOB WILSON: Mr. Chairman?

12 BENNY WAMPLER: Mr. Wilson, go ahead.

13 BOB WILSON: I want to point out a case as a  
14 misunderstanding. These wells are currently producing wells.  
15 They are to be deepened to new horizons and the operator has  
16 submitted an application to modify his permit to allow the  
17 drilling of these deeper horizons. So, the sites have been  
18 maintained throughout the years and will---.

19 KEN MITCHELL: Okay.

20 BOB WILSON: ---be subject to the inspections and  
21 so on as any other well will.

22 BENNY WAMPLER: Other questions?

23 (No audible response.)

24

--

1           BENNY WAMPLER: Do you have anything further?

2           JIM KISER: I ask that the two applications be  
3 approved as submitted, Mr. Chairman.

4           MAX LEWIS: I make a motion we approve it.

5           JIM KISER: With the caveat...well, we don't have  
6 any caveats. Well, you're going to check on the depth.

7           ROBERT KEANON: I have to check on the depth.

8           BENNY WAMPLER: Resubmit that if the depth is  
9 different.

10          ROBERT KEANON: If I'm...I guess I should ask, if  
11 I'm in error, then nothing needs to be done. They stand as  
12 submitted.

13          BENNY WAMPLER: I understand. But if it changes,  
14 you're going to submit it.

15          ROBERT KEANON: If it changes, we'll resubmit.

16          BENNY WAMPLER: Right. So, we have a motion to---.

17          MAX LEWIS: I make a motion to approve.

18          BENNY WAMPLER: ---approve.

19          BENNY WAMPLER: Is there a second?

20          DENNIS GARBIS: I second.

21          BENNY WAMPLER: Any further discussion?

22          (No audible response.)

23          BENNY WAMPLER: All in favor, signify by saying

24

1 yes.

2 (All members signify by saying yes.)

3 BENNY WAMPLER: Opposed, say no.

4 (No audible response.)

5 BENNY WAMPLER: You have approval. Thank you.

6 JIM KISER: Thank you.

7 BENNY WAMPLER: The next item on the agenda is a

8 petition from Columbia Natural Resources for pooling of a

9 conventional gas unit identified as well number 20793, docket

10 number VGOB-02-08/20-1067. We'll ask the parties that wish

11 to address the Board in this matter to come forward at this

12 time.

13 JIM KISER: Mr. Chairman and members of the Board,

14 Jim Kiser on behalf of Columbia Natural Resources. We don't

15 have any witnesses in this matter because I'm glad to report

16 that we can withdraw this application. We had one unleased

17 party when we filed the application. We have since obtained

18 a voluntary lease from Mr. Jerry Thomas Lester. That being

19 said, we'd ask that this application be withdrawn.

20 BENNY WAMPLER: Very good. Any objection?

21 (No audible response.)

22 BENNY WAMPLER: So done.

23 (Everyone laughs.)

24

1           BENNY WAMPLER: The next item on the agenda is a  
2 petition from Dart Oil and Gas Corporation for pooling of a  
3 conventional gas unit identified as Johnson #2, docket number  
4 VGOB-02-08/20-1068. We'd ask the---.

5           TIM SCOTT: Mr. Chairman, we're going to let Mr.  
6 Kiser go first so he don't have to get out of his seat.

7           BENNY WAMPLER: Okay.

8           JIM KISER: It's just we're here at the end.

9           BENNY WAMPLER: We're going to number 36 so he  
10 don't have to move again.

11          DENNIS GARBIS: He's got that seat warm, too.

12          JIM KISER: It's another one of those dreaded  
13 location exceptions.

14          BENNY WAMPLER: Any objections to the Board doing  
15 this?

16                (No audible response.)

17          BENNY WAMPLER: Oh, we can't do this, it's a well  
18 location.

19                (Everyone laughs.)

20          BENNY WAMPLER: We'll put this to the end. No, we  
21 go ahead and strike that last call and go for this one. A  
22 petition from Equity Production Company for a location  
23 exception for a proposed conventional gas well V-503108,  
24

1 docket number VGOB-02-08/20-1069. We'd ask the parties that  
2 wish to address the Board in this matter to come forward at  
3 this time.

4 JIM KISER: Mr. Chairman, Jim Kiser on behalf of  
5 Equitable Production Company. Our witness in this matter  
6 will again be Mr. Hall. He has been under oath for most of  
7 the day.

8 CLYDE KING: 69, right?

9 JIM KISER: 1069. Ready?

10 BENNY WAMPLER: We're ready.

11 DON HALL: Were there any extra of those?

12 MASON BRENT: Yeah.

13 (Mr. Brent hands Mr. Hall a copy of the exhibit.)

14 DON HALL: What I passed out is to correct the plat  
15 from the application. We discovered there was some errors in  
16 the lease numbers on the plat. It's nothing substantive that  
17 changed other than just the numbers. The lease numbers were  
18 in error. And well, I guess...I don't have any exhibit. So,  
19 we'll use that as an exhibit as well.

20

21 DON HALL

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KISER:

24

--

1           Q.       All right, Mr. Hall. If you could state  
2 your name, who you're employed by and in what capacity?

3           A.       Don Hall. I'm employed by Equity Production  
4 Company as district landman.

5           Q.       And do your responsibilities include the  
6 land involved in the unit here and in the surrounding area?

7           A.       It does.

8           Q.       And you're familiar with the application  
9 that we filed seeking a location exception for EPC well  
10 number V-503108?

11          A.       That's correct.

12          Q.       And have all interested parties been  
13 notified as required by Section 4(B) of the Virginia Gas and  
14 Oil Board Regulations?

15          A.       They have.

16          Q.       Could you indicate for the Board at this  
17 time the ownership of the oil and gas underlying the unit for  
18 well number V-503108?

19          A.       We have...we have several owners. The well  
20 itself was on a Pine Mountain tract. There's...consisting of  
21 20.6%...20.06% of the unit. Another Pine Mountain tract  
22 consists of 5.22%. We have several BLM tracts involved in  
23 this unit consisting of 12.23, 15.8, .01% and then we have an  
24



1 individual lease, Ann Straton lease, consisting of 9.64%.

2 Q. So, that's consistent with the Exhibit B  
3 which is attached to the application which shows the four  
4 different oil and gas and coal owners that are found in this  
5 particular unit, which would be Ann Straton, the United  
6 States Department of Interior, Pikes is the coal owner and  
7 then Pine Mountain the---?

8 A. That's correct.

9 Q. ---majority oil and gas owner? Now this is  
10 a very busy plat, Mr. Hall. And we are seeking a variance  
11 from one, two...well, really just one, two...three wells, is  
12 that correct?

13 A. That's correct.

14 Q. Could you kind of just take that plat and go  
15 through the reciprocal wells and what we have here at this  
16 time and explain to the Board why we need this exception?

17 A. Okay, first of all, do you see to the south  
18 of the subject well 3108, well number P-494? That well was  
19 drilled many years ago. In the process of drilling it, they  
20 had a natural Raven Cliff well and it was projected to be  
21 drilled to the Berea formation. But since they hit a  
22 natural, they didn't...they didn't...they decided not to  
23 deepen it...not to continue with the drilling.

24

--

1 Q. So, it was not completed to the Berea?

2 A. It was not completed to the Berea. But  
3 there is Berea production according to our geology department  
4 in the area that they want to tap. And rather than go  
5 back...try to go back in this well and deepen it and  
6 potentially loose production from the Raven Cliff, we're  
7 going...we propose to drill 3108 to the Berea formation and  
8 produce the Berea and not the Raven Cliff from that well.  
9 And since it's not in the same formation...since it's in two  
10 different formations, we don't need a location exception from  
11 that particular well. But where we have placed 3108, we need  
12 exceptions from E-507, D-1833 and P-430.

13 JIM KISER: Okay, so that being said, then my  
14 application is...if you'll turn to paragraph or point...I  
15 guess we'll call it paragraph 2.6 in the application. I'll  
16 need to amend that at some point to delete the seeking of the  
17 exception from EPC well P-494, which you see is the second  
18 reciprocal well that we've originally requested this variance  
19 from once again because...since the well that we're seeking  
20 the variance to drill, that being 503108 will be completed to  
21 and produced from a different formation than P-494. We no  
22 longer need the exception from P-494, but we do need it for  
23 P-430, P-507 and V-1833.

24

--

1 Q. Is that correct?

2 A. That's correct.

3 JIM KISER: Is everybody clear on that?

4 BENNY WAMPLER: They're all producing currently

5 from the Berea?

6 DON HALL: Yes, sir. With the exception of 494,

7 which is a Raven Cliff.

8 Q. Now, Mr. Hall, in the event this location

9 exception were not granted, would you project the estimated

10 lost of reserves?

11 A. 450 million cubic feet.

12 Q. And what is the total depth of the well

13 under the plan of development?

14 A. 4660 feet.

15 Q. And are you requesting that this location

16 exception, should it be granted, cover conventional gas

17 reserves to include the designated formations from the

18 surface to the total depth drilled?

19 A. Yes.

20 Q. And in your opinion, would the granting of

21 this location exception be in the best interest of preventing

22 waste, protecting correlative rights and maximizing the

23 recovery of the gas reserves underlying the unit for V-

24

1 503108?

2 A. Yes.

3 Q. And did any of the parties that were  
4 notified, that being not only the coal owner Pikes, but the  
5 three oil and gas owners, being Ms. Straton, the U.S.  
6 Government and Pine Mountain, make any objection to this  
7 location exception?

8 A. No, sir.

9 JIM KISER: That's all I have for this witness at  
10 this time, Mr. Chairman.

11 BENNY WAMPLER: Any questions from members of the  
12 Board?

13 MAX LEWIS: No other mineral owners involved other  
14 than Pine Mountain---.

15 JIM KISER: Pine Mountain, Ms. Straton and the U.S.  
16 Government, the Department of Interior, Bureau of Land  
17 Management.

18 BOB WILSON: Mr. Chairman?

19 BENNY WAMPLER: Mr. Wilson?

20 BOB WILSON: Did I understand that the Raven Cliff  
21 will not be completed in this well?

22 DON HALL: That's correct. 3108.

23 BENNY WAMPLER: So, what he's saying they're going  
24

--

1 to...they're saying they're going to go to Berea here.

2           MAX LEWIS: Going to go to Berea.

3           DON HALL: We're going to the Berea in this one.

4           BOB WILSON: But you have to go through the Raven

5 Cliff to get there?

6           MAX LEWIS: Well, yeah.

7           BENNY WAMPLER: They're going to exclude the

8 production.

9           DON HALL: Right.

10          BOB WILSON: You're going to exclude that in your

11 permit application presumably?

12          DON HALL: If it hadn't been, we'll have to modify

13 it to do that. But, yes.

14          BENNY WAMPLER: Further clarification, you're

15 seeking only to produce from the Berea?

16          DON HALL: That's correct. Or formations other

17 than the Raven Cliff.

18          BENNY WAMPLER: Okay.

19          CLYDE KING: I move we approve.

20          BENNY WAMPLER: Motion to approve.

21          MASON BRENT: Second.

22          BENNY WAMPLER: Second. Any further discussion?

23          (No audible response.)

24

--

1           BENNY WAMPLER: All in favor, signify by saying  
2 yes.  
3           (All members signify by saying yes.)  
4           BENNY WAMPLER: Opposed, say no.  
5           (No audible response.)  
6           BENNY WAMPLER: You have approval. The last item  
7 on the agenda. The Gas and Oil Board will consider petition  
8 from Dart Oil and Gas Oil Corporation for pooling of a  
9 conventional gas unit identified as Johnson #2 located in the  
10 Clear Fork District, docket number VGOB-02-08/20-1068. We'd  
11 ask the parties that wish to address the Board in this matter  
12 to come forward at this time. Thank you, Mr. Kiser.  
13           JIM KISER: Thank you.  
14           CLYDE KING: 1068.  
15           BENNY WAMPLER: 1068. It's item number 35 on your  
16 docket. The record will show there are no others. You may  
17 proceed.  
18           TIM SCOTT: Thank you. I'll remind you all that  
19 you all are still under oath. My witnesses are Robert Powell  
20 and Susan Linert.  
21           BENNY WAMPLER: I don't think I had you state your  
22 name for the record.  
23           TIM SCOTT: Tim Scott representing Dart Oil and  
24

1 Gas. Again, this is a pooling application for a conventional  
2 gas unit for well identified Johnson #2. Again, it's the  
3 VGOB docket number 02-08/20-1068. My first witness will be  
4 Mr. Powell.

5

6 ROBERT POWELL

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SCOTT:

9 Q. Would you state your name, please?

10 A. My name is Robert Powell.

11 Q. By whom are you employed?

12 A. Dart Oil and Gas Corporation as a consulting  
13 landman.

14 Q. Are you familiar with Dart's application for  
15 the establishment of a drilling unit and seeking a pooling of  
16 unleased interest for the Johnson #2 well?

17 A. Yes, I am.

18 Q. Is the acreage, which is the substance of  
19 the application, shown on the plat which is attached as  
20 Exhibit A to the application?

21 A. Yes, it is.

22 Q. One preliminary matter, Mr. Powell, are  
23 there any respondents listed on Exhibit B to the application

24

--

1 that should be dismissed from this...from this matter?

2 A. No, there are none.

3 Q. Okay. Does Dart own drilling rights in the  
4 unit involved here?

5 A. Yes, they do.

6 Q. And what is the percentage of the unit under  
7 lease to Dart?

8 A. 76.94%.

9 Q. Are there other parties within the unit who  
10 have drilling rights other than Dart?

11 A. Yes.

12 Q. Are those interests set forth on Exhibit B  
13 to the application?

14 A. Yes, they are.

15 Q. In this particular situation, do we have  
16 both known unknown interest and unknown unleased interest?

17 A. Yes, we do.

18 Q. Okay. I want to talk to you about the  
19 unknown unleased interest first, please.

20 A. Okay.

21 Q. Can you please tell the Board what the  
22 percentage of the unknown unleased interest is in this unit?

23 A. It's .10%.

24



1                   Q.        Okay.  And what's the identity of that  
2 particular unknown or unleased interest?

3                   A.        It's a cemetery.

4                   Q.        Okay.  Would you please give the Board a  
5 little background about how you've attempted to locate and  
6 how this cemetery came to be within the unit?

7                   A.        This cemetery was an exception in a deed in  
8 Tazewell County by Cosby Dudley and her husband.  The deed  
9 was in approximately 1929 or '30.  And we have tried to the  
10 find the heirs of Cosby Dudley and we were...we came up with  
11 one heir, Palestine Hess was an heir, and we've been trying  
12 to find, you know, her or him.  If there's anybody with that  
13 name.  We've asked the neighbors and the people in the area.  
14 We've canvassed them.  We've looked the deed records and  
15 there has been nothing of record or any of the tax records or  
16 anything that we can find of any heirs of this cemetery.

17                  Q.        Is this parcel separately assessed in the  
18 Commissioner of Revenue's office?

19                  A.        It has a tax parcel number, but I don't  
20 think they assess cemeteries.

21                  Q.        Okay.  So, there...is there any list of  
22 names before that or is it just shown as the Cosby---?

23                  A.        It's just shown as the Cosby.  It's actually  
24

1 just shown as a cemetery. And then our...just a cemetery.  
2 And then in our delving into it, we found the Cosby Dudley.  
3 We gave it that name because of the records.

4 Q. Okay. How were these person given notice of  
5 this hearing?

6 A. By the newspaper, notice in the Bristol  
7 Herald Courier.

8 Q. Okay. Are you...you've indicated, and I  
9 assume this is correct, that you're continuing to try to  
10 locate and identify these heirs, is that correct?

11 A. Yes. At this time, we're still trying to  
12 find heirs for this tract and get them leases.

13 Q. Okay. Let me ask you about the known but  
14 unleased persons. Are the addresses of these individuals and  
15 entities shown on Exhibit B?

16 A. Yes, they are.

17 Q. How were these persons notified of the  
18 hearing?

19 A. By certified mail return receipt.

20 Q. And what other method?

21 A. And by notice in the Bristol Herald Courier.

22 Q. Publication. Okay. And have you attempted  
23 to enter voluntary agreements with these individuals?

24

--

1           A.       Yes, we have.

2           Q.       Are these negotiations ongoing?

3           A.       Yes, we are still actively trying to lease  
4 these people.

5           Q.       As a step back here, have the photo copies  
6 of the return receipt cards and the affidavit of publication  
7 been provided to the Board?

8           A.       Yes, they have.

9           Q.       Momentarily, just a little while ago. Okay,  
10 are you requesting this Board to pool all the unleased  
11 interest as listed on Exhibit B?

12          A.       Yes, we are.

13          Q.       Okay, Mr. Powell, this is...to get to the  
14 point of what would be paid for a particular lease, are you  
15 familiar with the bonus and royalty payments in Tazewell  
16 County and in the surrounding areas?

17          A.       Yes, I am.

18          Q.       Could you please advise the Board as to what  
19 those terms would be?

20          A.       In this particular area, we're paying \$20  
21 per acre for a five year paid up lease and a \$100 for a  
22 minimum lease of less...anything less than a \$100, we go  
23 ahead and pay a \$100 for the lease.

24

1 Q. Okay.

2 A. A minimum for the lease.

3 BENNY WAMPLER: Anything less than---?

4 A. Anything...yeah---.

5 BENNY WAMPLER: Anything less than---.

6 A. ---if it was \$20 an acre, five acres or

7 less, you know, ---.

8 BENNY WAMPLER: That's your minium.

9 A. Yeah, that's our minium.

10 Q. Do the terms to which you have just

11 testified represent a reasonable value for the leased

12 interest in this area?

13 A. Yes, they do.

14 Q. Are you requesting the Board to grant to the

15 respondents if the Board does grant the application, the

16 three election options under Section 361.21, being

17 participation, a cash bonus of \$20 per acre...per net mineral

18 acre, plus a one-eighth of eight-eighths royalties or to be a

19 carried interest owner?

20 A. Yes.

21 Q. Do you also request that the Board provide

22 that any elections made by the respondents be sent in writing

23 to Dart Oil and Gas Corporation, 600 Dart Road, Mason,

24

1 Michigan 48854, to the attention of Mr. Roger McKinley.

2 A. Yes.

3 Q. Should all communications to the applicant  
4 be sent to that address?

5 A. Yes, they should.

6 Q. Okay. Now, we've just discussed a minute  
7 ago that we have a cemetery outstanding and we don't know who  
8 these heirs are. So, it's apparent that we would need to  
9 establish an escrow account to which proceeds...or into which  
10 proceeds attributed to those interest would be paid, is that  
11 correct?

12 A. That's correct.

13 Q. Under this application, who should be  
14 appointed or named operator for this unit?

15 A. Dart Oil and Gas Corporation.

16 TIM SCOTT: Okay. That's all the questions I have  
17 for Mr. Powell.

18 BENNY WAMPLER: Questions from members of the  
19 Board?

20 (No audible response.)

21 BENNY WAMPLER: Go ahead.

22

23 SUSAN LINERT

24

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Okay, Ms. Linert, would you state your name,  
occupation and who your employer is?

A. Susan M. Linert and I'm employed by Dart Oil  
and Gas Corporation and I'm a petroleum engineer with Dart.

Q. Okay. Are you familiar with the application  
now pending before the Board?

A. Yes, I am.

Q. In what aspect?

A. I authored the authority for expenditure,  
Exhibit C.

Q. Okay. Are you familiar with the total depth  
of the proposed well?

A. Yes, I am. It's about 6,000 feet.

Q. Okay. Are you requesting the Board to pool  
the conventional gas reserves not only to include the  
designated formations but any formations excluding coal  
formations which may be between those formations designated  
from the surface to the total depth drilled?

A. Yes, I am.

Q. And what are the estimated reserves for this  
unit?

1                   A.       750 million cubic feet.

2                   Q.       Are you familiar with the well costs for  
3 this proposed well?

4                   A.       Yes, I am.

5                   Q.       Has an AFE been reviewed, signed and  
6 submitted to the Board?

7                   A.       Yes, it has been.

8                   Q.       And I believe you have testified a moment  
9 ago you are...you personally prepared the AFE, is that  
10 correct?

11                  A.       Yes, I did.

12                  Q.       Okay. In your opinion, does the AFE  
13 represent a reasonable estimate of the well costs under your  
14 plan of development?

15                  A.       Yes, it does.

16                  Q.       Could you please state for the Board the dry  
17 hole costs and the completed well costs for the Johnson #2?

18                  A.       The dry hole costs on the Johnson #2 is  
19 \$334,395 with the total well cost of \$508.95 for the Johnson  
20 #2.

21                  Q.       Is the completed cost figure a figure that  
22 would be used by any respondent making an election under a  
23 Board order?

24

--

1           A.       Yes.

2           BENNY WAMPLER: I need to take her back to the...  
3 give me the total cost again.

4           TIM SCOTT: Okay, I'm sorry.

5           SUSAN LINERT: Okay. The total well cost would be  
6 five hundred and eight thousand dollars and ninety-  
7 five...five hundred and eight thousand dollars and ninety-  
8 five....anyway. It's such a big number I can't even say it.

9           (Everyone laughs.)

10          BENNY WAMPLER: \$508,095, is that correct?

11          SUSAN LINERT: Yes.

12          BENNY WAMPLER: Okay.

13          Q.       Okay, thank you. Does the authorization for  
14 expenditure cover a reasonable charge for supervision?

15          A.       Yes, it does.

16          Q.       And will the approval and grant of this  
17 application be in the best interest of conservation,  
18 prevention of waste and protection of correlative rights?

19          A.       Yes, I believe so.

20          TIM SCOTT: Those are all the questions I have for  
21 Ms. Linert.

22          BENNY WAMPLER: Any questions from members of the  
23 Board?

24



1           MASON BRENT: I have just one question, Mr.  
2 Chairman.  
3           BENNY WAMPLER: Mr. Brent?  
4           MASON BRENT: Do you have any other wells in the  
5 area drilled to a similar depth?  
6           SUSAN LINERT: Yes. The Johnson #1 is a close well  
7 to this.  
8           MASON BRENT: And is your drilling...actually  
9 drilling cost experience in line with your AFE?  
10          SUSAN LINERT: After the Johnson #1, due to some  
11 problems we encountered, came in considerable...the actual  
12 accounting cost came in considerably more. But if we had not  
13 had those problems, this would have been very much the  
14 scenario for that well.  
15          MAX LEWIS: Is that well plugged?  
16          SUSAN LINERT: The Johnson #1?  
17          MAX LEWIS: Yeah.  
18          SUSAN LINERT: We did plug it back. But we will be  
19 completing it.  
20          MAX LEWIS: What formation did you plug it back at?  
21          SUSAN LINERT: The Weir and also the Berea.  
22          MAX LEWIS: Thank you. I went to the below...you  
23 went to Weir below the Berea?  
24

1           SUSAN LINERT: Yes, sir.

2           MAX LEWIS: What formation did you go to below

3 that?

4           SUSAN LINERT: At 5,400 feet we were just about

5 into the shales, the Devonian shales.

6           MAX LEWIS: Are you...what's your elevation of your

7 well?

8           SUSAN LINERT: The elevation of the Johnson---?

9           MAX LEWIS: The well site? Yeah.

10          SUSAN LINERT: I don't know off the top of my head,

11 sir.

12          MAX LEWIS: Well, that's what I would have to know

13 before I could tell---.

14          ROBERT POWELL: Can I shed some light?

15          MAX LEWIS: Uh?

16          ROBERT POWELL: Can I shed some light?

17          MAX LEWIS: Yes.

18          ROBERT POWELL: Can I help? Are you wondering why

19 we went so deep and then came back up?

20          MAX LEWIS: Yes.

21          ROBERT POWELL: Because...I'm not the geologist.

22 I'm just a landman. But I work with geologists everyday.

23 And something had folded there and it truncated. Is that the

24

1 right terms? And we have all these formations and you go and  
2 then you have all the same formations again. And we were  
3 targeting the deeper ones of the formations. So, we went  
4 through them and we were trying to get down...is this  
5 correct, Susan? Is that correct?

6 (No audible response.)

7 ROBERT POWELL: And then we tried to get on down  
8 through them again there at two places. It folded over.  
9 Does that make sense?

10 MAX LEWIS: Yeah, it makes sense. But I can't see  
11 why you went back up.

12 SUSAN LINERT: If I may, we shanked the bit, which  
13 means we severed the bit, lost it in the hole. We went back  
14 in trying to fish it out and it was an unsuccessful fishing  
15 job. And so we actually moved...skidded the rig and moved it  
16 over.

17 MAX LEWIS: Moved the rig over?

18 SUSAN LINERT: Moved the entire rig over about ten  
19 feet and started to redrill. That was on the Johnson #1.  
20 And the elevation on the Johnson #2 is 2500 feet. And I  
21 believe if...I've been to the location, that's going to be  
22 very, very close. It's going to be over 2,000 feet  
23 elevation. It's 2522 feet for the elevation of the Johnson  
24

--

1 #2. They're on the same site of the Abbs Valley.

2 MAX LEWIS: Well, at that elevation, about 6,000

3 feet would put you in the Berea.

4 SUSAN LINERT: It should.

5 BOB WILSON: Mr. Chairman.

6 BENNY WAMPLER: Mr. Wilson?

7 BOB WILSON: I would like to point out that Dart

8 has requested under the law to your confidentiality the

9 completion aspect of this well.

10 SUSAN LINERT: Yeah.

11 BOB WILSON: I would suggest that we...we only get

12 into the information only if absolutely to have it because

13 this is public record.

14 SUSAN LINERT: Yes. Thank you. It's a tight hole.

15 MASON BRENT: Don't hesitate to mention that.

16 BENNY WAMPLER: Yeah.

17 SUSAN LINERT: Yeah, I should have been up front.

18 I'm sorry.

19 BENNY WAMPLER: That's okay. Yeah, don't hesitate

20 if you've got something like that to clarify. Any other

21 questions from members of the Board?

22 (No audible response.)

23 BENNY WAMPLER: Did you have anything further, Mr.

24

1 Scott?

2 TIM SCOTT: No, sir.

3 CLYDE KING: I move we approve.

4 KEN MITCHELL: I second.

5 BENNY WAMPLER: The motion is second. Any further  
6 discussions?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying  
9 yes.

10 (All members signify by saying yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval. Thank you.

14 TIM SCOTT: Thank you very much.

15 BENNY WAMPLER: That concludes our hearing today.

16 I'll remind the Board that we continued items 4, 5, 17, 18,  
17 22, 23, and 24.

18 BOB WILSON: I have one item, Mr. Chairman.

19 BENNY WAMPLER: Mr. Wilson?

20 BOB WILSON: It's going to take about a hour and a  
21 half.

22 (Everyone laughs.)

23 BOB WILSON: We are...as of the first of the fiscal  
24

1 year, which starts in July, required to post minutes of our  
2 public meetings on the Internet and we will be doing that.  
3 Basically, what we will do is take the agenda as it is mailed  
4 out along with notes that I have put to mail to you folks and  
5 then the results of the hearing. This will be the meetings  
6 that we will submit. We also have to go through an approval  
7 process for these minutes. So, what we will do is we will  
8 send out a copy of the minutes as we are posting them with  
9 the following months's Board items and then at the beginning  
10 or end of the next Board meeting we will ask for approval of  
11 the previous minutes so we can report the date that they were  
12 approved. This is a new requirement and we're just getting  
13 started. Actually it would have been last month if we had  
14 had a hearing. This will be the first one that we have  
15 actually posted. And to follow up on what Benny said about  
16 the continued items, please hang on to your mailings, your  
17 docket items of those items. They will be carried forward.  
18 We will not be remailing those. Thank you. That's all I  
19 have.

20 BENNY WAMPLER: Thank you very much. I appreciate  
21 your...Mr. Mitchell?

22 KEN MITCHELL: Mr. Chairman, would you send me the  
23 email address so I can...you know, I mean, obviously I get  
24

--

1 this. But it's fun to look it up on the Internet.

2 BOB WILSON: Oh, certainly.

3 (Off record.)

4 BENNY WAMPLER: I've got a question before me.

5 Typically, in the October meeting, we've had the meeting at

6 the Breaks and we've had a tour or something like that. Is

7 that something that the Board still would enjoy doing or do

8 you have any?

9 MASON BRENT: Been there and done that and it adds

10 an hour and a half to the drive.

11 BENNY WAMPLER: What about---?

12 (Off record.)

13 BENNY WAMPLER: Do we want to try that? Is that

14 something that you want to do?

15 DENNIS GARBIS: It's more to the group.

16 BENNY WAMPLER: If we do that, you know, I've

17 talked about coming to Big Stone and see the mapping. Maybe

18 we can bring the mappings to the Breaks and show some of the

19 mappings of the layers where we've talked before, maybe make

20 that of some real interest where we have the coal seams map

21 and various mining activity that's going on and overlay

22 it...the various overlay...the layers of gas and oil wells

23 and mining...surface mining activity and underground mining

24

1 activity along with the mini tour.

2           DENNIS GARBIS: Yeah, I mean, if we're going to be  
3 out that way, I'd like to kind of make them worthwhile. As  
4 Mr. Mason says over there, that's an extra two hours. I want  
5 to make it worthwhile if I'm going to make that trip.

6           BENNY WAMPLER: So, we...you know, what we'd  
7 envision doing is something like we did last time that maybe  
8 you'd come in the evening before and we'll...whatever you  
9 want to do, meet at noon and do a tour that afternoon and a  
10 luncheon and then a presentation of some these things hearing  
11 the next day and all that. Does that make sense?

12           (No audible response.)

13           BENNY WAMPLER: So, if you'll plan that for  
14 October, Mr. Wilson.

15           BOB WILSON: We do want to plan that at the Breaks,  
16 is that correct?

17           BENNY WAMPLER: That's what I was hearing. Okay,  
18 thank you very much.

19

20 STATE OF VIRGINIA,

21 COUNTY OF BUCHANAN, to-wit:

22           I, Jay Rife, Court Reporter and Notary Public for  
23 the State of Virginia, do hereby certify that the foregoing

24

--



1 hearing was recorded by me on a tape recording machine and  
2 later transcribed by me personally.

3            Given under my hand and seal on this the 9th day of  
4 September, 2002.

5 NOTARY PUBLIC

6  
7 My commission expires: March 31, 2003.